

Oregon State Bar
Meeting of the Board of Governors
April 12, 2019
The Grand Hotel Bridgeport
Open Session Agenda

The Open Session Meeting of the Oregon State Bar Board of Governors will begin at 1:00 p.m.
Items on the agenda will not necessarily be discussed in the order as shown.

*The mission of the OSB is to serve justice
by promoting respect for the rule of law,
by improving the quality of legal services, and
by increasing access to justice.*

Friday, April 12, 2019 1:00 pm

- 1. Call to Order**
- 2. President's Report [Ms. Costantino]**
- 3. Update and Discussion about Challenges to Unified Bars**
 - A. Generative Discussion**
 - B. Executive Session**
(pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1))
- 4. 2019 Strategic Areas of Focus**
 - A. Diversity Equity Training**
 - B. Diversity Action Plan**
 - 1. Year One Implementation Report**
 - 2. Updated Plan**
- 5. BOG Committees**

A. Policy and Governance Committee [Ms. Reeves] <ol style="list-style-type: none">1. Program Review2. Adopt BOG Social Media Policy3. Civil Refugee Assistance Panel	Handout	<u>Exhibit</u>
B. Board Development Committee [Mr. Bachofner] <ol style="list-style-type: none">1. Appointments to various OSB Committees and Councils	Action	Handout
C. Budget & Finance Committee [Mr. Wade] <ol style="list-style-type: none">1. Client Security Fund Reserve Policy	Inform	<u>Exhibit</u>
D. Public Affairs Committee [Mr. Foster] <ol style="list-style-type: none">1. 2019 Legislative Update2. May 8, 2019 Day at the Capitol	Inform	

6. Professional Liability Fund [Ms. Bernick]

A.	2019 Excess Renewal	Inform	<u>Exhibit</u>
B.	Financial Statement	Inform	<u>Exhibit</u>
C.	PLF Policy 7.600 (C)(2)	Action	<u>Exhibit</u>
D.	General Update	Inform	

7. OSB Committees, Sections, Councils and Divisions

A.	Oregon New Lawyers Division Report [Mr. Sturm]	Inform	<u>Exhibit</u>
B.	Legal Services Program [Mr. Penn]		
1.	Accept the Legal Services Program Accountability Report	Action	<u>Exhibit</u>
C.	Civil Legal Needs Study [Mr. Penn]	Inform	<u>Exhibit</u>
D.	MCLE Proposed Rule for Pro Tem Judge Service	Action	<u>Exhibit</u>

8. Resolution to terminate Nationwide 457B Plan

Action Exhibit

9. National Conference of Bar Examiners Testing Task Force Survey

Action Exhibit

10. Closed Sessions – CLOSED Agenda

A.	Executive Session (pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1))		
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11. Consent Agenda

A.	Report of Officers & Executive Staff		
1.	Executive Director's Report	Inform	
2.	Director of Regulatory Services	Inform	<u>Exhibit</u>
B.	Client Security Fund Committee [Ms. Hollister]		
1.	CSF Financial Reports and Claims Paid	Inform	<u>Exhibit</u>
2.	Claims to Approve or Review	Action	<u>Exhibit</u>
C.	Adopt Amendments to OSB Bylaw 1.2 [Ms. Hierschbiel]		
1.	Memo with Bylaw Change redline version	Action	<u>Exhibit</u>
D.	Approval of February 21, 2019 and March 8, 2019 Meeting Minutes	Action	<u>Exhibit</u>

12. Good of the Order (Non-Action Comments, Information and Notice of Need for Possible Future Board Action)

A. Articles of Interest

OSB Board of Governors

STATUTORY CHARGE

The OSB Board of Governors (BOG) is charged by the legislature (ORS 9.080) to "at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice."¹ The Oregon State Bar (OSB) is also responsible, as an instrumentality of the Judicial Department of the State of Oregon, for the regulation of the practice of law.² As a unified bar, the OSB may use mandatory member fees only for activities that are germane to the purposes for which the bar was established.³

MISSION

The mission of the OSB is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

STRATEGIC FUNCTIONS

The BOG has translated the statutory charge and mission into three core functions that provide overall direction for OSB programs and activities:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity and promoting professionalism in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

FIDUCIARY ROLE

In order to advance the mission and achieve its goals, the BOG must ensure that the OSB is effectively governed and managed, and that it has adequate resources to maintain the desired level of programs and activities.

¹ Webster's Dictionary defines jurisprudence as the "philosophy of law or the formal science of law." 'The "administration of justice" has been defined in case law variously as the "systematic operation of the courts," the "orderly resolution of cases," the existence of a "fair and impartial tribunal," and "the procedural functioning and substantive interest of a party in a proceeding."

² The OSB's responsibilities in this area are clearly laid out in the Bar Act, ORS Chapter 9.

³ In *Keller v. State Bar of California*, 499 US 1,111 S Ct 2228 (1990), the US Supreme Court held that an integrated bar's use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

AREAS OF FOCUS FOR 2019

1. Follow-up on Futures Task Force items
 - a. Determine whether to create an admissions path for individuals who do not attend law school but who pass the bar exam.
 - b. Determine whether to create a limited license to practice law for paraprofessionals.
 - c. Consider recommendations from the Referral Fees Committee.
2. Conduct Program Review of Referral and Information Services
3. Review the OSB governance model, strategic functions, programs, activities and communications to ensure they are aligned with the bar's public service mission.
4. Evaluate potential forms of revenue and cost-savings for 2020 budget and beyond.
5. Continue investment to upgrade our I/T footprint (hardware and software) to attain modern compatibility, low-cost efficiency and ease of use, and improved data security.
6. Consider changes to member fee structure to provide greater equity.
7. Engage and expand the Citizens Campaign for Judicial Funding to bolster support for adequate funding for Oregon's court system.
8. Implement Diversity Action Plan items identified for 2019.

OREGON STATE BAR

Board of Governors Agenda

From: Policy & Governance Committee
Meeting Date: April 12, 2019
Re: Refugee Civil Assistance Panel Proposal

Action Recommended

Approve creation of pro bono panel that will provide civil assistance to refugees asylees and immigrants.

Background

At its November 2018 meeting the BOG approved the concept of a new pro bono panel that will be administered by the RIS department. The BOG's decision to approve the new panel was based on a recommendation by the Public Service Advisory Committee (PSAC). When the BOG approved the concept, it requested a program scoresheet be submitted to the BOG's Policy and Governance Committee.

The Policy & Governance Committee has reviewed the program scoresheet and determined that the program is well-aligned with the bar's mission. It recommends final approval of the new panel.

Attachments: PSAC Memo to BOG for 2018.11.17

Program Scoresheet

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: November 15-17, 2018
Memo Date: October 23, 2018
From: Public Service Advisory Committee
Eric McClendon, Referral & Information Services Manager
Kay Pulju, Communications & Public Services Director
Re: Refugee Civil Assistance Panel Proposal

Actions Recommended

1. Approve the creation of a pro bono panel that will provide civil assistance to refugees, asylees and immigrants.

Background

Oregon Women Lawyers and Catholic Charities representatives presented this proposal to the Public Service Advisory Committee (PSAC) at its September 2018 meeting. They asked the PSAC to recommend to the Board of Governors (BOG) the implementation of a pro bono panel to assist the refugee and immigrant communities of Oregon, which experience enormous barriers accessing justice in the state.

According to the Census Bureau's 2017 American Community Survey (ACS), 408,718 Oregonians were foreign born, nearly 10% of Oregon's population.¹ These individuals often struggle to find representation due to a variety of barriers, including financial and language difficulty. The ACS found that nearly 44% of foreign-born Oregonians report not speaking English "very well", compared to just 1% of native-born Oregonians, while 27% of foreign-born residents lack a high-school education, compared to 7% of native-born residents. These factors contribute to a higher poverty rate for foreign-born households (16% compared to 13%) and a median income that is over \$7,000 less than for native-born residents (\$54,000 compared to \$61,000). The educational and income inequality is even greater for foreign-born non-citizens.

In addition to these barriers, asylees are often victims of abuse, and many have minor children. While immigration concerns are crucial to these individuals, they frequently face a variety of other civil concerns that are not being addressed. For example, an asylee may be the victim of domestic violence and need assistance obtaining a FAPA restraining order. Without the ability to quickly obtain legal assistance, these individuals may be at extreme risk of being further victimized and, in turn, losing their homes, jobs, or access to social supports.

After discussing the issues and current pro bono service models at OSB, the PSAC voted to approve the concept of a pro bono assistance panel and ask the BOG to expedite consideration of this proposal due to the immediate need for legal assistance in the refugee community.

¹ U.S. Census Bureau, American Community Survey (2017), S0501.

The proposal is for a referral panel similar to the Military Assistance Panel, a pro bono project offered through RIS. It would pair immigration lawyers with lawyers in other subject matters to ensure consideration of the special legal needs of these populations. Other panel guidelines and information are as follows:

Advisory Panel – An Advisory Panel of experts would be tapped to conduct training sessions and build FAQ sheets for attorneys and participants.

Screeners – As with the other pro bono programs administered by RIS, staff would screen potential clients. RIS staff are already trained to identify potential issues and areas of law in order to create a referral. Adding this additional panel would require no additional staff and would utilize current department infrastructure.

Volunteer Panelists – Attorney volunteers would commit to offering up to two hours of advice and guidance. Any additional services or time would need to be negotiated between the lawyers and clients. Attorney volunteers would work in teams to communicate and advise the clients after mutual consultation. Approximately X number of attorneys have indicated they are eager to volunteer as panelists.

Interpretation services – Interpretation services will be available to the clients at every stage of the process.

Areas of Law – Based on the recommendations received by the PSAC, the following areas of law would be offered. Each referral would include one immigration attorney along with a panelist for the particular civil need identified by RIS staff.

Landlord/tenant

Public benefits (social services, social security, disability)

Victims' Rights

Family law

Juvenile

Criminal defense

Wills, estates, trusts, elder abuse

Business and Nonprofits

Employment

Certified Pro Bono Status – If the panel is approved, staff will apply to the Professional Liability Fund for certified pro bono status, allowing more attorneys to participate. Open recruitment, along with the limited scope of the volunteer commitment, have proven successful strategies for our other RIS pro bono programs.

RIS staff in consultation with PSAC will have the ability to modify the program based on experience and to be responsive to both referred individuals and attorneys feedback on the program.

OSB Program / Service / Activity Scoresheet

Program / Service / Activity	Pro Bono Panel for Refugees/Asylees/Immigrants		
Program Description	In cooperations with OWLS, AILA and Catholic Charities, the new panel will offer pro bono services to clients with legal issues that commonly intersect with immigration law. RIS will provide the staffing and infrastructure; the partner organizations will recruit and train volunteers, including a separate panel of immigration law experts available to assist pro bono panelists.		
Factors	Comments	Score	
Member Impact	Supports relationships with affinity bars and provides mentoring opportunities with experienced immigration lawyers.	1	1
Impact on individuals from non-dominant cultures	Majority of clients served will be from non-dominant cultures.	3	1
Public Impact	Direct impact in an area of critical need for an underserved population.	3	1
Competition	Partnership that will assist rather than compete with other providers.	3	1
Volunteer Engagement	Partners have already recruited approx. 150 potential volunteers, who will offer up to two hours of pro bono service per client. Like with the Military Assistance Panel, it is expected that many will commit to ongoing pro bono representation.	2	1
Revenue / Cost	Cost will be absorbed into the "non-LRS" side of Referral and Information Services, which has an approximate annual cost of \$348,202. Actual cost will depend on call volume.	3	1
Cost per Member	Program cost + ICA = \$43,525. Therefore, cost per member is \$2.90. This number is based on the expectation that the new panel will account for 5% of RIS expenses.	3	1
Total	Total possible score (21 - highest)	18	7
<i>Average</i>			2.6
Mission Alignment			
Strategic Goals	Comments	Score	
Ensure competence in the legal profession	Offers training and advice/mentoring from advisory panel but not a primary function of the program.	1	1
Ensure integrity in the legal profession		1	1
Promote professionalism in the legal profession		1	1
Support the judicial system		2	1
Improve Administration of Justice	Having parties represented, especially where areas of law intersect, supports the fair and smooth functioning of the justice system.	2	1
Promote the quality and integrity of the judiciary		1	1
Advance diversity, equity and inclusion (DEI) in the Oregon bench and bar		1	1
Foster public understanding of the law and justice system	Promotes understanding of how immigration status intersects with other areas of law, both for lawyers and the public.	2	1
Increase access to justice	Direct provision of legal services to a vulnerable population with critical legal	3	1
Total	Total possible score (27-highest)	14	9
<i>Average</i>			1.6
Combined Total (Factors + Mission Alignment Average)			16 / 2.0

Score each line on a scale of 1 to 3, with 3 being the highest.

OREGON STATE BAR

Board of Governors

Meeting Date: April 12, 2019
From: Budget and Finance Committee
Subject: Client Security Fund (CSF)

In July 2018, Amber Hollister, General Counsel, noted her opinion that based on claims in the CSF pipeline, we should use a 70% payout factor. The committee approved a \$5 increase in the CSF assessment for 2019 to \$15 total, which will provide ~ \$225K toward reserves in 2019.

In October 2018, the Bar was awarded custodianship of all files pertaining to the practice of Lori E. Deveny. As of April 10th, there are 32 outstanding claims associated with this practice, totaling \$2,484K. The "Pending" column factors in all line items at the lower of Claim Amount or \$50K cap. At an overall 100% payout for the Deveny line items, and 70% estimated payout factor across all other claims, there is a current deficit of (\$608K). When factoring in the current \$1,000,000 minimum reserve and the \$167,305 remaining portion of the 2019 CSF assessment still be recognized this year, there is a total potential additional reserve needed of \$1,235,579 (i.e. approximately \$82 per active member).

CLAIM #	CLAIMANT	LAWYER	CLAIM AMT	PENDING	AMOUNT PAID
			\$ 3,365,339	\$ 1,840,398	\$ 89,189
	Funds available for claims and indirect costs as of March 31, 2019			\$ 1,232,293	
	Fund Excess/(Deficit)			\$ (608,105)	
	Estimated Activity Payout Factor			Deveny at 100% & 70%	70%
	Weighted \$ Amount		\$ 1,635,176.51	\$ 1,635,176.51	
	Reserve Minimum			\$1,000,000	\$0
	Calculated Minimum Total Reserve		\$ 2,635,177	\$ 1,635,177	
	Additional Reserve Needed		\$ 1,402,884	\$ 402,884	
	2019 Assessment remaining to be recognized (\$15/member ~ \$225K total)		\$ 167,305	\$ 167,305	
	Potential Net Additional Reserve Needed		\$ 1,235,579	\$ 235,579	

Menu List of Mitigation Options:

1. Reduce or eliminate the \$1M reserve minimum.
2. Cap payouts at a total cumulative \$ amount (less than or equal to the current available reserve).
3. Identify a factored payment formula, (i.e. if awarded pay up to \$25K in year 1, any remainder to \$50K in year 2).
4. Increase 2020 CSF fee.
5. Increase borrowing.
6. Allocate funds from additional available reserves.



OREGON STATE BAR Board of Governors Agenda

Meeting Date: April 12, 2019
Memo Date: March 25, 2019
From: Carol J. Bernick, PLF CEO
Re: 2019 Excess Enrollment Report

Action Recommended

No action requested.

Background

Beginning with the 2015 Excess renewal, the BOG asked that the PLF report at least annually about the Excess enrollment.

2019 Excess Enrollment

The 2019 Excess enrollment cycle is largely complete. 2018 marked the final year in our effort to bring premiums in line with the risk, as our reinsurers had suffered losses that were not in keeping with the premium. Thus, in 2019 we worked with the reinsurers to keep our rates as flat as possible.

The PLF has three treaties with reinsurers, which we (creatively) title Treaty 1 (T1), Treaty 2 (T2), and Treaty 3 (T3). Treaty 1 is for policies with limits up to \$2.7 million; Treaty 2 is \$2.7-4.7 million; and Treaty 3 is \$4.7-10 million.

Our renewal rate was 91%, a slight dip from our historic average. As of March 25, 2019, we have 688 firms (1967 attorneys) enrolled in our Excess Program. Only 187 of those firms purchased Excess over \$2.7 million. The vast majority of firms purchased only \$700,000 in additional coverage. This dip was due in large part to a decision we made not to renew two larger firms. 18 firms purchased Extended Reporting Coverage (ERC), up from 10 firms last year. The vast majority of these are due to lawyer retirements.

The 2019 renewal was the second fully electronic renewal. Firms were able to complete the application online, receive quotes within ten days, and then bind online. And this year, we began accepting payments online. All Dec Sheets are available through the online portal so firms can easily access them when needed.

Every Excess Plan has an added cyber loss endorsement with limits up to \$100,000 (firms 1-10 lawyers) or \$200,000 (firms of 11 or more lawyers). We now offer up to \$1,000,000 in additional cyber coverage. In 2019, additional cyber coverage premiums increased 54% over the previous year. The cyber endorsement provides coverage for information security and privacy liability, cyber extortion (aka ransomware), privacy breach response services, regulatory defense and penalties, website media content liability, and crisis management and public relations services. The endorsement covers many claims that would otherwise be excluded under the PLF primary plan.

CJB/clh

**Oregon State Bar
Professional Liability Fund
Financial Statements
2/28/2019**

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7	Combined Investment Schedule

**Oregon State Bar
Professional Liability Fund
Combined Primary and Excess Programs
Statement of Net Position
2/28/2019**

<u>ASSETS</u>	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$6,749,014.48	\$8,248,938.40
Investments at Fair Value	60,634,914.26	61,343,557.41
Assessment Installment Receivable	8,808,695.58	9,383,897.00
Due from Reinsurers	706,342.91	412,152.87
Other Current Assets	73,271.05	65,905.22
Net Fixed Assets	408,169.60	542,968.08
Claim Receivables	111,531.53	18,733.32
PERS Deferred Outflow of Resources	1,151,573.46	1,151,573.46
Other Long Term Assets	<u>2,500.00</u>	<u>5,000.00</u>
TOTAL ASSETS	\$78,646,012.87	\$81,172,725.76
<u>LIABILITIES AND FUND POSITION</u>	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable and Other Current Liabilities	\$73,960.08	\$92,549.51
Due to Reinsurers	\$2,470,747.97	\$3,089,719.74
PERS Pension Liability	4,931,707.98	4,931,707.98
Liability for Compensated Absences	423,621.72	380,963.74
Liability for Indemnity	11,300,921.43	11,428,135.86
Liability for Claim Expense	13,393,754.92	13,084,144.58
Liability for Future ERC Claims	3,100,000.00	2,900,000.00
Liability for Suspense Files	1,500,000.00	1,500,000.00
Liability for Future Claims Administration (AOE)	2,400,000.00	2,300,000.00
Excess Ceding Commision Allocated for Rest of Year	746,292.19	777,404.37
Primary Assessment Allocated for Rest of Year	<u>18,955,220.84</u>	<u>20,268,190.83</u>
Total Liabilities	\$59,296,227.13	\$60,752,816.61
Change in Net Position:		
Retained Earnings (Deficit) Beginning of the Year	\$17,006,866.12	\$20,094,730.19
Year to Date Net Income (Loss)	<u>2,342,919.62</u>	<u>325,178.96</u>
Net Position	\$19,349,785.74	\$20,419,909.15
TOTAL LIABILITIES AND FUND POSITION	\$78,646,012.87	\$81,172,725.76

**Oregon State Bar
Professional Liability Fund
Primary Program**
Statement of Revenues, Expenses, and Changes in Net Position
2 Months Ended 2/28/2019

	YEAR TO DATE <u>ACTUAL</u>	YEAR TO DATE <u>BUDGET</u>	YEAR VARIANCE	YEAR TO DATE <u>LAST YEAR</u>	ANNUAL <u>BUDGET</u>
REVENUE					
Assessments	\$3,741,821.83	\$3,781,250.00	\$39,428.17	\$4,001,021.50	\$22,687,500.00
Installment Service Charge	49,222.33	53,000.00	3,777.67	52,616.67	318,000.00
Other Income	61,300.00	9,500.00	(51,800.00)	44,684.30	117,000.00
Investment Return	<u>2,837,000.84</u>	<u>148,956.00</u>	(2,688,044.84)	<u>170,514.94</u>	<u>893,734.00</u>
TOTAL REVENUE	<u>\$6,689,345.00</u>	<u>\$3,992,706.00</u>	<u>(\$2,696,639.00)</u>	<u>\$4,268,837.41</u>	<u>\$24,016,234.00</u>
EXPENSE					
Provision For Claims:					
New Claims at Average Cost	\$3,220,000.00			\$2,780,000.00	
Coverage Opinions	46,492.36			30,017.90	
General Expense	32,479.01			3,036.81	
Less Recoveries & Contributions	(1,987.68)			(2,811.92)	
Budget for Claims Expense	<u> </u>	<u>2,891,666.00</u>	<u> </u>	<u> </u>	<u>\$17,350,000.00</u>
Total Provision For Claims	<u>\$3,296,983.69</u>	<u>\$2,891,666.00</u>	<u>(\$405,317.69)</u>	<u>\$2,810,242.79</u>	<u>\$17,350,000.00</u>
Expense from Operations:					
Administrative Department	\$410,258.54	\$572,591.00	\$162,332.46	\$470,055.94	\$3,510,137.00
Accounting Department	131,894.31	167,292.00	35,397.69	128,867.96	1,022,951.00
Loss Prevention Department	296,224.53	393,004.00	96,779.47	309,499.85	2,348,264.00
Claims Department	408,805.58	521,760.00	112,954.42	385,685.78	3,156,597.00
Allocated to Excess Program	<u>(144,835.32)</u>	<u>(144,836.00)</u>	(0.68)	<u>(159,034.84)</u>	<u>(869,012.00)</u>
Total Expense from Operations	<u>\$1,102,347.64</u>	<u>\$1,509,811.00</u>	<u>\$407,463.36</u>	<u>\$1,135,074.69</u>	<u>\$9,168,937.00</u>
Depreciation and Amortization	\$24,189.77	\$25,168.00	\$978.23	\$26,038.40	\$151,000.00
Allocated Depreciation	<u>(3,583.34)</u>	<u>(3,584.00)</u>	(0.66)	<u>(3,666.66)</u>	<u>(21,500.00)</u>
TOTAL EXPENSE	<u>\$4,419,937.76</u>	<u>\$4,423,061.00</u>	<u>\$3,123.24</u>	<u>\$3,967,689.22</u>	<u>\$26,648,437.00</u>
NET POSITION - INCOME (LOSS)	<u>\$2,269,407.24</u>	<u>(\$431,355.00)</u>	<u>(\$2,700,762.24)</u>	<u>\$301,148.19</u>	<u>(\$2,638,203.00)</u>

**Oregon State Bar
Professional Liability Fund
Primary Program
Statement of Operating Expense
2 Months Ended 2/28/2019**

<u>EXPENSE:</u>	CURRENT <u>MONTH</u>	YEAR <u>TO DATE ACTUAL</u>	YEAR <u>TO DATE BUDGET</u>	YEAR <u>VARIANCE</u>	YEAR <u>TO DATE LAST YEAR</u>	ANNUAL <u>BUDGET</u>
Salaries	\$385,912.91	\$656,290.84	\$831,344.00	\$175,053.16	\$636,527.02	\$4,988,057.00
Benefits and Payroll Taxes	149,374.12	274,172.71	471,063.00	196,890.29	266,041.28	2,780,976.00
Investment Services	0.00	0.00	0.00	0.00	0.00	48,000.00
Legal Services	0.00	0.00	1,666.00	1,666.00	2,951.10	10,000.00
Financial Audit Services	0.00	0.00	0.00	0.00	0.00	24,500.00
Actuarial Services	10,862.50	10,862.50	0.00	(10,862.50)	8,855.00	25,000.00
Information Services	2,575.50	5,263.50	10,832.00	5,568.50	8,549.65	65,000.00
Document Scanning Services	0.00	0.00	3,750.00	3,750.00	870.94	22,500.00
Other Professional Services	2,224.18	6,891.08	12,250.00	5,358.92	16,468.45	73,500.00
Staff Travel	488.39	509.56	2,450.00	1,940.44	675.61	14,700.00
Board Travel	772.71	1,784.00	9,584.00	7,800.00	1,041.49	57,500.00
NABRICO	250.00	250.00	0.00	(250.00)	0.00	15,650.00
Training	581.02	3,471.02	6,174.00	2,702.98	5,622.80	37,000.00
Rent	46,422.63	92,272.13	96,942.00	4,669.87	90,021.62	581,656.00
Printing and Supplies	9,279.77	16,006.64	13,002.00	(3,004.64)	14,438.34	78,000.00
Postage and Delivery	1,914.37	2,283.03	2,300.00	16.97	2,258.99	13,800.00
Equipment Rent & Maintenance	1,096.36	10,696.33	11,082.00	385.67	9,878.84	66,500.00
Telephone	4,208.71	8,522.75	8,500.00	(22.75)	8,318.93	51,000.00
L P Programs (less Salary & Benefits)	23,325.92	53,151.97	83,014.00	29,862.03	68,655.95	498,050.00
Defense Panel Training	0.00	0.00	0.00	0.00	0.00	42,410.00
Bar Books Grant	16,666.67	33,333.34	33,334.00	0.66	33,333.34	200,000.00
Insurance	6,649.44	9,612.88	9,742.00	129.12	10,413.66	58,450.00
Library	2,807.53	4,910.56	5,600.00	689.44	8,146.64	33,600.00
Subscriptions, Memberships & C/C Charq	2,328.71	56,870.59	41,684.00	(15,186.59)	101,039.88	250,100.00
Allocated to Excess Program	(72,417.66)	(144,835.32)	(144,836.00)	(0.68)	(159,034.84)	(869,012.00)
TOTAL EXPENSE	\$595,323.78	\$1,102,320.11	\$1,509,477.00	\$407,156.89	\$1,135,074.69	\$9,166,937.00

**Oregon State Bar
Professional Liability Fund
Excess Program**
Statement of Revenue, Expenses, and Changes in Net Position
2 Months Ended 2/28/2019

	YEAR TO DATE <u>ACTUAL</u>	YEAR TO DATE <u>BUDGET</u>	YEAR <u>VARIANCE</u>	YEAR TO DATE <u>LAST YEAR</u>	ANNUAL <u>BUDGET</u>
<u>REVENUE</u>					
Ceding Commission	\$148,853.09	\$157,500.00	\$8,646.91	\$154,137.72	\$945,000.00
Installment Service Charge	48,229.00	52,000.00	3,771.00	49,866.00	52,000.00
Investment Return	<u>28,480.70</u>	<u>3,332.00</u>	<u>(25,148.70)</u>	<u>(12,804.45)</u>	<u>20,000.00</u>
TOTAL REVENUE	<u>\$225,562.79</u>	<u>\$212,832.00</u>	<u>(\$12,730.79)</u>	<u>\$191,199.27</u>	<u>\$1,017,000.00</u>
 <u>EXPENSE</u>					
Operating Expenses (See Page 6)	\$148,467.07	\$170,116.00	\$21,648.93	\$163,501.84	\$1,020,700.00
Allocated Depreciation	<u>\$3,583.34</u>	<u>\$3,584.00</u>	<u>\$0.66</u>	<u>\$3,666.66</u>	<u>\$21,500.00</u>
NET POSITION - INCOME (LOSS)	<u>\$73,512.38</u>	<u>\$39,132.00</u>	<u>(\$34,380.38)</u>	<u>\$24,030.77</u>	<u>(\$25,200.00)</u>

**Oregon State Bar
Professional Liability Fund
Excess Program
Statement of Operating Expense
2 Months Ended 2/28/2019**

	CURRENT <u>MONTH</u>	YEAR <u>TO DATE ACTUAL</u>	YEAR <u>TO DATE BUDGET</u>	YEAR <u>VARIANCE</u>	YEAR <u>TO DATE LAST YEAR</u>	ANNUAL <u>BUDGET</u>
<u>EXPENSE:</u>						
Salaries	\$33,856.08	\$67,712.16	\$79,166.00	\$11,453.84	\$78,998.66	\$475,000.00
Benefits and Payroll Taxes	13,644.91	27,289.82	29,166.00	1,876.18	30,202.84	175,000.00
Investment Services	0.00	0.00	34.00	34.00	0.00	200.00
Office Expense	0.00	0.00	0.00	0.00	0.00	0.00
Allocation of Primary Overhead	24,916.67	49,833.34	49,834.00	0.66	49,833.34	299,000.00
Reinsurance Placement & Travel	118.75	118.75	2,500.00	2,381.25	0.00	15,000.00
Training	0.00	0.00	84.00	84.00	0.00	500.00
Printing and Mailing	828.00	828.00	666.00	(162.00)	817.00	4,000.00
Program Promotion	(737.00)	2,495.00	2,500.00	5.00	2,495.00	15,000.00
Other Professional Services	0.00	0.00	4,500.00	4,500.00	1,155.00	27,000.00
Software Development	<u>190.00</u>	<u>190.00</u>	<u>1,666.00</u>	<u>1,476.00</u>	<u>0.00</u>	<u>10,000.00</u>
TOTAL EXPENSE	<u>\$72,817.41</u>	<u>\$148,467.07</u>	<u>\$170,116.00</u>	<u>\$21,648.93</u>	<u>\$163,501.84</u>	<u>\$1,020,700.00</u>

**Oregon State Bar
Professional Liability Fund
Combined Investment Schedule
2 Months Ended 2/28/2019**

	CURRENT MONTH <u>THIS YEAR</u>	YEAR TO DATE <u>THIS YEAR</u>	CURRENT MONTH <u>LAST YEAR</u>	YEAR TO DATE <u>LAST YEAR</u>
Dividends and Interest:				
Short Term Bond Fund	\$20,906.36	\$41,414.60	\$18,760.71	\$30,742.66
Intermediate Term Bond Funds	37,716.38	75,413.39	29,464.77	57,944.37
Bank Loans	11,678.20	24,545.62	7,351.02	13,946.54
Domestic Common Stock Funds	0.00	0.00	0.00	0.00
International Equity Fund	0.00	0.00	0.00	0.00
Real Estate	0.00	0.00	0.00	0.00
Hedge Fund of Funds	0.00	0.00	0.00	0.00
Real Return Strategy	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Dividends and Interest	\$70,300.94	\$141,373.61	\$55,576.50	\$102,633.57
Gain (Loss) in Fair Value:				
Short Term Bond Fund	(\$17,735.80)	(\$14,092.11)	(\$20,455.95)	(\$50,958.05)
Intermediate Term Bond Funds	(18,282.13)	52,737.43	(111,930.08)	(191,731.51)
Bank Loans	33,680.45	78,372.36	(1,731.85)	7,641.81
Domestic Common Stock Funds	478,635.01	1,563,676.26	(541,022.71)	178,172.07
International Equity Fund	237,062.33	1,043,413.99	(626,947.24)	111,952.60
Real Estate	0.00	0.00	0.00	0.00
Hedge Fund of Funds	0.00	0.00	0.00	0.00
Real Return Strategy	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Gain (Loss) in Fair Value	\$713,359.86	\$2,724,107.93	(\$1,302,087.83)	\$55,076.92
TOTAL RETURN	\$783,660.80	\$2,865,481.54	(\$1,246,511.33)	\$157,710.49
Portions Allocated to Excess Program:				
Dividends and Interest	\$892.82	\$1,525.37	\$3,256.78	\$5,275.53
Gain (Loss) in Fair Value	9,059.67	26,955.33	(76,302.35)	(18,079.98)
TOTAL ALLOCATED TO EXCESS PROGRAM	\$9,952.49	\$28,480.70	(\$73,045.57)	(\$12,804.45)

**Oregon State Bar
Professional Liability Fund
Excess Program
Balance Sheet
2/28/2019**

ASSETS

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$1,162,474.34	\$579,255.50
Assessment Installment Receivable	1,369,866.58	1,385,431.00
Due from Reinsurers	706,342.91	412,152.87
Investments at Fair Value	<u>1,941,274.14</u>	<u>3,491,358.81</u>
TOTAL ASSETS	<u>\$5,179,957.97</u>	<u>\$5,868,198.18</u>

LIABILITIES AND FUND EQUITY

	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable & Refunds Payable	\$1,018.00	\$817.00
Due to Primary Fund	\$118.75	(\$10,457.16)
Due to Reinsurers	2,470,747.97	3,089,719.74
Ceding Commision Allocated for Remainder of Year	<u>746,292.19</u>	<u>777,404.37</u>
Total Liabilities	<u>\$3,218,176.91</u>	<u>\$3,857,483.95</u>
Net Position		
Net Position (Deficit) Beginning of Year	\$1,888,268.68	\$1,986,683.46
Year to Date Net Income (Loss)	<u>73,512.38</u>	<u>24,030.77</u>
Total Net Position	<u>\$1,961,781.06</u>	<u>\$2,010,714.23</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$5,179,957.97</u>	<u>\$5,868,198.18</u>

**Oregon State Bar
Professional Liability Fund
Primary Program
Balance Sheet
2/28/2019**

<u>ASSETS</u>	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Cash	\$5,586,540.14	\$7,669,682.90
Investments at Fair Value	58,693,640.12	57,852,198.60
Assessment Installment Receivable	7,438,829.00	7,998,466.00
Due From Excess Fund	118.75	(10,457.16)
Other Current Assets	73,152.30	76,362.38
Net Fixed Assets	408,169.60	542,968.08
Claim Receivables	111,531.53	18,733.32
Other Long Term Assets	2,500.00	5,000.00
PERS Deferred Outflow of Resources	1,151,573.46	1,151,573.46
TOTAL ASSETS	\$73,466,054.90	\$75,304,527.58

<u>LIABILITIES AND FUND EQUITY</u>	<u>THIS YEAR</u>	<u>LAST YEAR</u>
Liabilities:		
Accounts Payable and Other Current Liabilities	\$72,823.33	\$102,189.67
PERS Pension Liability	4,931,707.98	4,931,707.98
Liability for Compensated Absences	423,621.72	380,963.74
Liability for Indemnity	11,300,921.43	11,428,135.86
Liability for Claim Expense	13,393,754.92	13,084,144.58
Liability for Future ERC Claims	3,100,000.00	2,900,000.00
Liability for Suspense Files	1,500,000.00	1,500,000.00
Liability for Future Claims Administration (ULAE)	2,400,000.00	2,300,000.00
Assessment and Installment Service Charge Allocated for Remainder of Year	18,955,220.84	20,268,190.83
Total Liabilities	\$56,078,050.22	\$56,895,332.66

Net Position		
Net Position (Deficit) Beginning of the Year	\$15,118,597.44	\$18,108,046.73
Year to Date Net Income (Loss)	2,269,407.24	301,148.19
Total Net Position	\$17,388,004.68	\$18,409,194.92

TOTAL LIABILITIES AND FUND EQUITY	\$73,466,054.90	\$75,304,527.58
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OREGON STATE BAR Board of Governors Agenda

Meeting Date: April 12, 2019
Memo Date: April 1, 2019
From: Carol J. Bernick, PLF CEO
Re: PLF Policy 7.600(C)(2) – Excess Retroactive Date Discount Revisions

Action Recommended

Amend PLF Policy 7.600(C)(2) regarding Excess retroactive date discounts to provide a 10% per year discount. This method is preferable to the current method because it steadily increases the firm premium over time, is easily explained to firms when they first buy coverage, and is more predictable for the firm each year.

Background

When new firms begin coverage with the PLF at Excess they are written with an inception retroactive date. This date essentially signifies that the PLF is going to cover the work done by the firm from the date of their Excess application. Put another way, we do not cover the prior acts of a firm that has never carried Excess. This inception retroactive date (RDI) is beneficial to the firm because it takes into account that we are not covering a long body of work and so grants the firm a 50% discount in its first two years of coverage and then a 30% and 15% discount in the following years. This current RDI discount schedule is detailed in PLF Policy 7.600(C)(2).

Issue

For many firms, the transition through our RDI discounts is quite jarring. The jump between years 2 and 3 is quite steep. This often results in many phone calls to our office about the significant jump in premium for these relatively new firms.

The Washington State Bar Association's recently prepared Mandatory Malpractice Insurance Task Force report discussed how many commercial policies deal with recent retroactive discounts by doing a 10% bump each year, starting at 50% and then ending at 0% after five years. Below is a table comparing how our credits now work versus how a 10% credit increase per year would work using \$2000 as the non-discounted premium.

Memo To: OSB Board of Governors

April 1, 2019

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	PLF Discount	PLF Premium	Commercial Discount	Commercial Premium
Year 1	50%	\$1,000	50%	\$1,000
Year 2	50%	\$1,000	40%	\$1,200
Year 3	30%	\$1,400	30%	\$1,400
Year 4	15%	\$1,700	20%	\$1,600
Year 5	8% (shift to continuity credit ¹)	\$1,840	10%	\$1,800
Year 6 - Full Premium	10% continuity credit	\$1,800	0%	\$2,000
TOTAL PREMIUM OVER 6 YEARS		\$8,740		\$9,000

The total premium collected during the same period is slightly under the gradual increase system used by commercial carriers (\$9,000) than the PLF system (\$8,740).

Proposal

Proposed New Policy Language:

- (2) The PLF may give a credit to firms with recent excess coverage retroactive dates according to the following schedule:

Period Between Firm Retroactive Date and Start of Coverage Period	Excess Assessment Credit
0 months to 18 months	50 percent
Over 18 months to 30 months	30 percent
Over 30 months to 42 months	15 percent
Over 42 months	No credit

Period Between Firm Retroactive Date and Start of Coverage Period	Excess Assessment Credit
0-12 months	50%
12-24 months	40%
24-36 months	30%
36-48 months	20%
48-60 months	10%
60+ months	No credit

¹ PLF Policy 7.600(I)(1) – “Firms that are offered excess coverage may receive a continuity credit for each year of continuous PLF Excess Coverage (2% for one year, up to a maximum credit of 20% for ten years)...” In the table above, the firm would have an 8% continuity credit after four years of purchasing coverage.

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The PLF may choose not to offer the credit to a firm for the underwriting considerations stated in Policies 7.250 and 7.300.

CJB/clh

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019

Memo Date: April 5, 2019

From: Joel Sturm, Oregon New Lawyers Division Chair

Re: ONLD Report

The ONLD Executive Committee met in Eugene on March 9. In conjunction with that meeting, on Friday afternoon, March 8 the ONLD co-hosted a CLE with the Lane County Bar Association focusing on attorney well-being. Karen Neri of the OAAP was the speaker, and approximately 45 people attended.

The **CLE Committee** reported that it has set a date for the Super Saturday CLE (June 22) and is moving forward with planning for that. The committee plans a CLE in Washington County in April, in Pendleton in September., and in Ontario in October. There will also be a Bend CLE in conjunction with the Executive Committee meeting in Sunriver in May. All of these CLEs will focus on lawyer well-being.

In addition to the mental health CLEs, the CLE Committee is working with the Deschutes County Bar Association and the local LASO office to host a Lawyer in Library networking event with local judges to coincide with the Sunriver Executive Committee meeting.

The CLE Committee informed the Executive Committee about the work of the OSB MCLE Committee to incorporate the NLMP rules into the MCLE rules. The CLE Committee will consider ways to help ensure that new lawyers understand the MCLE rules.

The **Student Outreach Committee** reported on the planned April 30 Courtroom to Classroom event scheduled for Salem, wherein the Appellate Court will hold a session at a local high school, followed by conversation among the justices, local attorneys and the high school students.

The **Access to Justice Committee** will be attending its first OSB ProBono committee soon and will determine the best way to cross promote with ONLD. There will be a Wills for Heros event, in Salem in May or June. They have been reaching out to the Military Law Section, the Bankruptcy Clinic, and the LASO Night Clinic to determine programs that need more new lawyer support. This year's Pro Bono Celebration will be on Thursday, October 24.

The **Membership Committee** continues to plan many events. Those held since the last BOG report or scheduled for the near future are:

- February 27 Networking@Nite event at Swine co-sponsored by the Oregon Hispanic Bar Association (approximately 25 attendees—snow day)
- March 27 Networking@Nite event at Mother's Bistro, co-sponsored by the Oregon Chinese Law Association (approximately 30 attendees)
- April 4 Networking event in conjunction with the Debtor-Creditor Section's NW Bankruptcy Institute

- April 24 Networking@Nite event at Hi-Lo Bar, co-sponsored by the Oregon Trial Lawyers Association
- May 30 Networking@Nite event at Picnic Pdx, co-sponsored by the Oregon Chapter of the National Bar Association

The Committee also is working with the OSB Diversity and Inclusion Department to plan a Spring event focused on retaining diverse lawyers in their first three years of practice that attended law schools out of Oregon and therefore didn't attend any OLIO events. possibly dinner or speed networking.

The Executive Committee is considering a survey to all new lawyers regarding Attorney Wellness and will discuss this further at its next meeting. The Chair appointed an ad hoc committee to discuss changes that may need to be made to ONLD bylaws/committee charges, and to propose redrafted language to Executive Committee, in light of the BOG's proposed changes to the strategic functions/goals of the Oregon State Bar.

The Executive Committee is considering moving to a weekly communication with its members and will continue to examine the best way to do that.

Joe Cerne will work with members of the Washington State Young Lawyers Association as the ONLD continues to examine the best way to hold a regional Rural Summit.

OREGON STATE BAR

Board of Governors

Meeting Date: April 12, 2019
Memo Date: April 3, 2019
From: Legal Services Program Committee
Re: 2018 Legal Services Program Accountability Report

Action Recommended

The Legal Services Program Committee is recommending that the BOG accept the 2018 Legal Services Program Accountability Report.

Background

The OSB Legal Services Program (LSP) began in 1998, following the Oregon Legislature's appropriation of a portion of court filing fees to support civil legal aid services to the poor. Pursuant to ORS 9.572 the OSB is required to manage the funds, develop Standards and Guidelines for providers, appoint a Director of the LSP and create a LSP Committee to provide ongoing oversight, evaluation and support to legal aid providers, to ensure compliance with the Standards and Guidelines, and to further the program's goals.

As part of the oversight and evaluation functions, the Director of the LSP conducts an accountability process that focuses on the effectiveness of the providers in meeting the needs of the individual clients and the larger client community. The LSP Committee is the governing body responsible for making recommendations to the BOG on the assessment of provider programs. The LSP Committee has reviewed the 2018 Legal Services Program Accountability Report and is forwarding it to the BOG.

Legal Services Program

2018 Accountability Analysis

Overview

The accountability process is designed to provide the OSB Legal Services Program (LSP) with information about the work of legal services providers. With this information, the OSB LSP can carry out its duties to the OSB Board of Governors as outlined in the *Oregon Legal Services Program Standards and Guidelines*.

The process focuses on the effectiveness of the providers in meeting the needs of individual clients and the larger client community, and in developing and using resources. The goals of the review are to ensure compliance with the OSB LSP *Standards and Guidelines*; to ensure accountability to clients, the public, and funders; and to assist with each provider's self-assessment and improvement.

The process has four components:

1. **An annual Self-Assessment Report (SAR)** submitted by providers, including a narrative portion and a statistical/financial portion;
2. **Ongoing Evaluation Activities by the OSB LSP**, including peer reviews, desk reviews, ongoing contacts, and other evaluation activities consistent with the OSB LSP *Standards and Guidelines*;
3. **A periodic Peer Survey** conducted of attorney partners, clients, judges, opposing counsel, and community partners, all of whom are identified by the providers; and
4. **A periodic Accountability Report** to the OSB Board of Governors and other stakeholders, summarizing the information from the providers' SARs and other information, including ongoing contacts with providers by OSB LSP staff, annual program financial audits, and the Annual Peer Survey.

This Accountability Analysis examines the information supplied by the programs in their SARs covering the 12-month period ending December 31, 2017, and onsite reviews of the Center for NonProfit Legal Services (CNPLS) office in Medford, the Legal Aid Services of Oregon (LASO) Pendleton Regional Office, and the Oregon Law Center (OLC) Ontario Regional Office. Seven reviewers participated in the process: Bill Penn, Brent Hall, Andrea Thompson, Sara Kobak, Laurie Craghead, Judge Tim Gerking, and Judith Baker. This analysis includes a follow-up to the recommendations made in the 2016 Accountability Report.

Program Overview

Legal aid clients receive free civil legal services through three nonprofits that are part of an integrated delivery system that is designed to provide relatively equal levels of high-quality client services in all 36 Oregon counties. There are two statewide programs, LASO and OLC; and one county-specific program, the CNPLS in Medford. A significant change to the civil legal aid provider structure happened during this reporting period. Effective January 1, 2017, OLC and Lane County Law and Advocacy Center (LCLAC) merged, and LCLAC became a regional office of OLC and no longer a county-specific program. Another significant change is the retirement, effective in April 2018, of OLC's executive director who has been a legal aid lawyer for 40 years. After conducting a national

search, the OLC board selected an internal candidate who has had almost two decades of experience representing low-income people with disabilities, immigrants, and people experiencing homelessness.

Civil legal aid has offices in 17 communities and services all Oregon counties. The majority of the regional offices are located along the I-5 corridor as that is the most populated area. There are also offices located on the coast, in central Oregon, and in eastern Oregon. In some areas, there are only a few lawyers to serve a large geographic region (e.g., three lawyers in Ontario serve an area the size of Massachusetts and Connecticut combined).

An estimated 807,000 low-income Oregonians currently qualify for legal aid's help. There are 116 legal aid lawyers in Oregon, so roughly two legal aid lawyers for every 14,000 low-income individuals. The providers served 28,500 clients in 2017.

The Performance Areas

This Accountability Analysis is divided into Performance Areas that track the broad themes expressed in the mission statement and statement of goals in the OSB LSP *Standards and Guidelines*. The Performance Areas also incorporate The American Bar Association (ABA) *Standards for the Provision of Civil Legal Aid*. Each section outlines and discusses the level of alignment found and makes recommendations. The Performance Areas are as follows:

1. **"An integrated, statewide system of legal services ... [that eliminates] barriers ... caused by maintaining legal and physical separation between providers."**
2. **"Centered on the needs of the client community."**
3. **"Efficient and effective" ... by deploying limited resources in a manner that maximizes the system's ability to provide representation.**
4. **"Full spectrum of ... legal services"—"the broadest range of legal services required to serve the needs of clients."**
5. **"High-quality legal services."**

Performance Area One: Achieving an Integrated Statewide System of Legal Aid Services

It is the goal of the OSB LSP that all providers are part of an integrated statewide delivery system designed to provide relatively equal levels of high-quality client representation throughout the state of Oregon.

Criterion 1.1 Working Together Strategically to Target Limited Resources to Ensure Equality of Access Statewide.

Finding 1.1 One of the structures that the three legal aid providers use to cooperate and provide relatively equal access for clients statewide is the strategic planning process. The 2016 Accountability Report recommended that LCLAC and CNPLS increase their level of participation in the statewide strategic planning process by being part of the implementation of the planning recommendations. The legal aid providers' most recent strategic planning process was adopted by their boards in 2016. The final Strategic Planning Report included LCLAC and CNPLS in the recommendations given by the strategic planning committee, to enhance the efficiency and effectiveness of statewide services through advocacy and coordination, possible shifts in staffing or revenue, and additional staff.

Recommendation 1.1 Once all the recommendations from the current strategic plan are completed, the providers' boards of directors should undertake a new strategic planning process to address ongoing and emerging challenges related to their funding and other changes in laws and emerging client needs.

Criterion 1.2 Minimizing Geographic and Institutional Parochialism

Finding 1.2 LASO and OLC are statewide organizations with regional offices. They share a responsibility to provide services statewide while focusing on the needs of each local community. They work closely together to provide a full range of legal services to low-income clients. They maintain separate organizations only because of the restrictions on federal funds, and they strive to integrate services as much as possible. To accomplish this, they share a board; they both use LegalServer as their case management system; and they use the same policies for intake, priority setting, regional office management, and regional manager evaluation, all aligned with the *Standards and Guidelines*. They also have joint quarterly manager meetings. LCLAC merged into OLC effective January 1, 2017, becoming the OLC Lane County Regional Office. When LCLAC merged into the OLC, the office adopted the systems listed above, minimizing the geographic and institutional parochialism.

Since the 2016 Accountability Report, CNPLS has adopted the same case management system used by LASO and OLC. There appears to have been limited integration of CNPLS into the active exchange of ideas, best practices, and management techniques that occur regularly between LASO and OLC.

Recommendation 1.2 LASO, OLC and CNPLS should continue to work together as they have on eliminating their differences. All providers should work to integrate in the exchange of ideas, best practices, and management techniques that are aligned with the *Standards and Guidelines*. By working together, all providers can benefit from the flow of ideas and practices in all directions. The focus should be on working together to discover the best ways to provide consistent services, consistent quality, and consistent access to services across the state, based on local needs.

Criterion 1.3 Integrated Training

Finding 1.3 It is important that providers encourage lawyers to stay abreast of changes among the issues that affect low-income clients in Oregon by participating in various forums in which such issues and strategies are discussed.

OLC houses the State Support Unit (SSU). The goal of the SSU is to provide support to *all* of Oregon's legal aid lawyers. It does this by sponsoring training designed to provide professional development for legal aid lawyers statewide. This training includes areas such as new-lawyer training, motion practice training, discovery training, complex litigation training, and trial advocacy training. The SSU also maintains listservs to keep all staff up to date on changes in legislative, administrative, and case law. In addition, the SSU attorneys sponsor quarterly task force meetings organized by family, employment, housing, and administrative law to keep staff up to date on substantive law developments and provide opportunities to network, discuss cases, and understand statewide developments. It is important that legal aid attorneys participate in various forums in which areas of law and strategies are discussed. This allows attorneys to stay aware of changes among the issues that affect the low-income communities they serve.

The 2016 Accountability Report recommended that all provider practitioners strive as much as practical to participate in trainings and task force meetings facilitated by the SSU. In addition, the report recommended that providers work on ways to allow lawyers located outside of Portland to attend trainings and task force meetings remotely to defray the cost of traveling to Portland. It was hoped this would allow Medford attorneys to attend

task force meetings more frequently. It was further recommended that Medford attorneys make it a priority to be more connected to the other lawyers who practice poverty law in Oregon.

In response to the recommendation, OLC and LASO reported that they improved remote access by adding video meeting technology to LASO's large training room. As a result, legal aid lawyers may now remotely attend task force meetings, manager meetings, and other trainings. All LASO and OLC offices, including the Lane County Regional Office (formally LCLAC), purchased new desktops that include appropriate cameras, microphones, and software to attend meetings by video remotely from each desk.

The review team that interviewed CNPLS attorneys in Medford found in their discussions that some CNPLS lawyers knew that the SSU existed and others were not aware of the professional development opportunities provided.

Recommendation 1.3 CNPLS should ensure that all of their attorneys participate in the trainings and task forces that the SSU offers. This would further integrate CNPLS attorneys and services into the statewide system of legal aid services. LASO and OLC should work with CNPLS to ensure that they are better connected and feel welcomed by directly inviting CNPLS attorneys to the listservs and task force meetings. LASO and OLC should ensure that task force meetings can be attended remotely by CNPLS attorneys by video when appropriate, and CNPLS should allocate the funds necessary to purchase an appropriate web camera so staff can participate remotely.

Criterion 1.4 Increasing Resources for Legal Aid through Integrated Efforts

Finding 1.4 The Campaign for Equal Justice (CEJ) is the primary resource development arm for all the legal aid providers. The providers agree as recipients of CEJ's fundraising efforts to not solicit lawyer contributions on their own to avoid confusion by donors. CEJ coordinates the annual fund drive, educates lawyers and the community about the importance of access to justice, works to increase state and federal funding for legal aid, and builds an endowment. CEJ reports that the providers are integrated from a resource development and fundraising perspective. The providers engage in numerous activities to support CEJ's annual campaign and work closely with CEJ and the OSB to protect and expand funding for legal aid.

CNPLS has a long history, independently from CEJ, of engaging the community beyond lawyers and judges with its Founder's Breakfast. CNPLS reported the implementation of donor tracking software to help enhance this event and its donor outreach beyond the legal community. The Founder's Breakfast is unique in Oregon and laudable. Outside Jackson County, it has proven difficult to implement broad-based development efforts beyond the legal community.

Recommendation 1.4 Providers should continue to work with CEJ in a collaborative manner to increase funding for legal aid services statewide. CNPLS should coordinate with CEJ regarding the Founder's Breakfast to see if there are ways that CEJ's resources can enhance fundraising efforts outside the legal community. LASO and OLC should, through CEJ, explore whether the development efforts of CNPLS outside the legal community can be viable in other parts of the state. CNPLS has been and should continue to be mindful not to solicit lawyer contributions at the Founder's Breakfast to avoid competition and confusion with CEJ's potential lawyer donors.

Performance Area Two: Centered on the Needs of the Client Community and Targeting Resources to Address Those Needs

Criterion 2.1 Periodic Comprehensive Assessment and Ongoing Consideration of Legal Needs

Finding 2.1 Performance Area Two gauges the success of providers at targeting their services on the most compelling needs of the client community and the ability to implement responses to the changing circumstances. They do this by understanding their community through participation on boards and advisory committees as well as working with social service agencies and community-based organizations that serve low-income persons. In other words, providers need to integrate into the community to be able to understand current needs and see emerging trends. Ongoing assessment should be coupled with periodically conducting more formal needs assessments and setting program priorities to address the needs identified. The 2016 Accountability Report recommended that all programs incorporate best practices in how they assess community needs. In response, LASO began drafting a standard client priorities survey for use by all LASO offices. Professor Grant Farr of Portland State University advised LASO on the project. Professor Farr attended a quarterly LASO/OLC managers meeting at which he trained managers on survey drafting and survey techniques to enhance the validity of the data. After input from managers, LASO drafted a significantly redesigned survey instrument and began using it in 2017.

The CNPLS Executive Director and the Regional Managers of the LASO Pendleton office and OLC Ontario office all report engaging in assessment activities both informally and formally. The LASO Pendleton office's survey and assessment data were reviewed and found to be very detailed and thorough. They also conveyed that attorneys and support staff are engaged in their community, which is an effective mechanism for ensuring that offices remain knowledgeable of the needs of the client community.

Recommendation 2.1 OLC and LASO should continue to assess the results of using the redesigned survey instrument to ensure that it enhances the assessment process, in that it provides more uniform data across service areas without its length being too much of a deterrent for clients to complete. CNPLS should assess the sufficiency of its already completed assessment process and determine whether OLC and LASO's client assessment practices and new survey instrument will enhance its client assessment process. Consistency in methodology statewide is important to understand the most pressing client needs and how resources should be spent.

Criterion 2.2 Setting Priorities, Developing Strategies, and Targeting Resources to Address Those Needs

Finding 2.2 OLC and LASO both report through staff interviews and SARs that after client and community survey information is collected and analyzed, each office conducts priority-setting meetings involving office staff and others. The established priorities guide the work plans for each office, guide intake/outreach, and become an integral part of each office's case acceptance decisions. LASO and OLC's priorities are adopted by the LASO and OLC Board on an annual basis. Board policy is that LASO and OLC should implement the statewide program priorities through local office priority-setting processes that contain more specific goals tailored to local considerations. OLC and LASO use a variety of strategies, including advice, limited assistance, extended representation, community education, pro se assistance, and clinics designed to meet the most pressing legal needs of low-income Oregonians. An example of action taken as a result of changing need is reported by OLC. OLC employees joined together with other service providers to identify priorities and coordinate providing legal services for Latino clients who sought legal advice on multiple issues because of the significant changes in how the United States government was administering federal law after January 2017. Priorities were adjusted and major projects and cases were initiated to respond to the shifting legal need among low-income Oregonians.

LASO reports that due to Oregon's housing crisis, they are redoubling efforts to preserve housing and address homelessness by representing clients in more individual cases, engaging in outreach and education, and, critically, working on systemic solutions to benefit a larger number of clients.

CNPLS reports that it conducts a legal needs assessment for Jackson County at least once every two years using assessment questionnaires to seek input from former and current clients, judges, local attorneys, government and nonprofit agencies, and other community stakeholders. That said, after obtaining the information, staff did not appear to engage in an advocacy planning process. CNPLS staff work hard to represent their clients within the legal practice areas in which they specialize, however they are unable to justify a connection between the cases they do take and a larger planning process to utilize limited resources on the greatest community need. For example: Although domestic violence victims make up a large number of CNPLS clients in a variety of legal areas, CNPLS does not represent domestic violence victims in restraining and protective orders alone which represents a substantial number of clients served by OLC and LASO. CNPLS did not have an explanation for why. Medford is experiencing a housing affordability crisis, but there has not been a refocusing of resources to address housing on a broader scale.

Recommendation 2.2 CNPLS has a service delivery model where staff attorneys are specialized in the area of law they practice. ABA Standard 2.2 on Delivery Structure points out that although this specialization has advantages it also has the potential to inhibit a response to a new area of law that calls for substantive knowledge and strategic approaches that are unfamiliar to a specialized attorney. In addition, not all CNPLS attorneys are connected with the OLC's SSU, which has the expertise to provide the guidance needed to consider advocacy strategies to adapt to changing community needs. CNPLS must engage in planning processes used by OLC and LASO in conjunction with the SSU that are consistent with the *Standards and Guidelines*, to set priorities, service goals, and advocacy strategies that incorporate service changes for the most pressing client needs in Jackson County. LASO and OLC should take affirmative steps to assist CNPLS in those efforts. As ABA standard 2.2 specifies, "a provider should periodically review how it deploys its staff and adjust how it relies on specialists and generalists to reflect changing client needs and staff capabilities." However CNPLS's service delivery structure evolves, CNPLS should be aware of the advantages and disadvantages and should take appropriate steps to address any weaknesses.

Performance Area Three: Achieving Efficient and Effective Delivery of Services

Performance Area Three speaks to how effectively legal aid represents its clients and that it achieves the results with minimum waste of resources and effort. "Efficient and effective" is a phrase used throughout the ABA *Standards*. This includes those standards that address joint planning by providers around access and service-delivery models, the importance of statewide training opportunities, and choosing advocacy methods that both accomplish a meaningful result and are a cost-effective use of resources. Joint planning and statewide training opportunities were discussed under Performance Area One. This section will focus on advocacy methods that both accomplish a meaningful result and are a cost-effective use of resources and efficiencies.

Criterion 3.1 Using Advocacy Methods that both Accomplish a Meaningful Result and Are a Cost-Effective Use of Resources and Efficiencies

Finding 3.1 Efficient and effective advocacy methods are developed when advocates both assess individual cases and use community contacts to identify and address systemic problems in order to reduce the number of individual problems experienced by the client community. The following are examples from the providers that highlight effective and efficient advocacy methods:

OLC

Community partners serving low-income clients and public health physicians notified OLC that low-income people were being routinely denied access to new life-saving drugs that were almost 100% effective in curing hepatitis C. Instead, low-income people were told that they could not get the new drug until they reached the late stage of the disease, by which time most patients would be permanently disabled. OLC attorneys who work on public benefits issues completed extensive legal research, consulted with national experts, and concluded that low-income patients had legal claims that were likely to prevail under federal law. In addition, they learned that Oregon had the highest hepatitis C death rate in the nation (15 per 100,000 per year compared to the national rate of 6 per 100,000). Oregon also had a high ratio of people infected with hepatitis C compared to other states (3,050 per 100,000 compared to 1,700 nationwide). It was estimated that 47,000 Oregonians had been diagnosed and that 95,000 were infected. The infection and death rates had a disproportional impact on communities of color in Oregon. Seeking benefits for health care was a priority for OLC.

Using the OLC administrative law task force and in-house administrative law listserv, all OLC, LASO, and CNPLS offices were alerted to be on the lookout for clients who presented with a denial of a request for hepatitis C treatment. The administrative law hotline started to screen for potential clients. The task force provided training and sample pleadings for legal aid lawyers statewide to increase efficiency and effectiveness. Shortly after that, legal aid advocates across Oregon started accepting cases for individual clients who had been denied this treatment. Legal aid offices in Albany, Coos Bay, Eugene, Portland, and other locations, prevailed on individual cases heard before administrative law judges, resulting in life-saving treatments for their clients. After clients prevailed in a growing number of individual cases, some caseworkers started to settle claims, after receiving briefing documents from legal aid and before the hearing date, by agreeing to provide the treatment.

Legal aid advocates sought to change the statewide policy to bring it into compliance with federal law. Changing the statewide policy would be more efficient and effective than handling hundreds of individual cases. A new statewide policy would also be better for low-income people who did not know that they had a legal right, nor how to enforce that legal right. OLC advocates drafted pleadings to file a class action in federal court and shared a copy with agency attorneys. As usual, OLC offered to meet with attorneys for the agency before filing the case, to determine whether they could reach a settlement before filing. Settlements can be more efficient and effective than litigation because settlements can occur faster, give the parties more control over the terms, and leave the parties with a better working relationship to implement the agreed-on changes. Through mediation, the parties signed a memorandum of understanding (MOU) in which OLC's clients agreed to delay filing the federal class action until after the next legislative session, the agency agreed to seek additional funding for hepatitis C treatments in that session, and both parties agreed on a draft policy that would comply with federal law.

During the last two weeks of the 2017 Legislature, OLC learned that the final agency budget did not contain additional funding for hepatitis C medication, largely due to the \$1.6 billion deficit, the broad range of demands on the agency, and the last-minute collapse of support for the revenue enhancement measure. OLC legislative advocates swung into action, arranging meetings with the legislative leadership. As a result of OLC's lobbying efforts, the legislature appropriated an additional \$10 million to pay for these life-saving hepatitis C treatments. Together with existing funding, this made it possible to implement the new policy. Many organizations were seeking funds at the end of that session.

After the legislature approved funding, OLC advocates worked with the attorneys representing the agency to make certain that the MOU was fully implemented. At one point, there was some reluctance, but then the MOU was implemented.

LASO

The City of Portland has funded LASO to address the legal needs of tenants who are facing potential involuntary displacement from their homes and communities. This is a one-year contract that has enabled LASO to hire one full-time staff attorney and one bilingual and bicultural intake/outreach staff to work solely on this project. Through this project, LASO represents the Portland communities impacted most by the current housing crisis (i.e., communities of color and other vulnerable populations) through direct representation of tenants at risk of involuntary displacement. Much of this work is focused on preserving housing stability and resolving issues before an eviction filing occurs in order to best preserve a tenant's record. In addition, this project focuses on representing tenants in addressing larger building-wide issues such as massive rent increases, evasion of the obligations under the relocation-assistance ordinance, unlawful utility billing, hazardous living conditions, or other violations of the law. For many of the tenants represented through the project, there are numerous other tenants at the same complex who are positively affected. Through this project, LASO staff has strengthened our relationships of trust and partnership with agencies serving communities of color by accepting referrals directly from partnership agencies, providing walk-in intake at partnership agencies, and responding to trends identified by partnership agencies. The project team is currently conducting regular walk-in clinics at Immigrant and Refugee Community Organization and Self-Enhancement, Inc. and is in conversations with the Urban League to set up similar housing legal clinics. LASO hopes that the funding will be renewed for future years.

CNPLS

As a part of an effort to provide an integrated system of legal services at the community level, CNPLS assisted in coordinating a legal outreach area at Project Community Connect and a legal tent at Stand Down. The goal of the "Legal Services" is to provide general information and, in some cases, specific legal assistance to applicants who are seeking to understand and address their legal problems. The "Legal Services" in both events provides access to judges and legal professionals who volunteer their time to provide pro bono help and either direct assistance or referral/next steps. Last year the legal services professionals worked with over 300 applicants of the 600 persons who attended the Project Community Connect event. In some cases, CNPLS was able to resolve the issues, and in some, CNPLS was able to assist applicants to begin (or begin again) to understand a realistic assessment of their problems. Volunteers help applicants to understand if there is a legal issue with a judicial or legal solution—or if there are other steps they need to take.

Recommendation 3.1 Providers should continue to identify and address systemic problems in order to reduce the number of individual problems experienced by the client community. Providers should engage advocacy methods that both accomplish a meaningful result and are a cost-effective use of resources and efficiencies.

Performance Area Four: Achieving a Full Spectrum of Legal Services

Criterion 4.1 Providing a Wide Range of Legal Services for the Poor Promotes Fairness as Well as Efficiency and Effectiveness.

Finding 4.1 Enforcing broader rights of low-income communities is a function of legal services advocates, as well as providing individuals with representation in day-to-day matters. Providing community legal education and helping people represent themselves are also important functions.

The providers offer a wide range of legal services including phone or walk-in intake and advice, direct legal representation for individuals by staff and pro bono lawyers, complex litigation, community legal education, assistance to self-represented litigants, and legislative or administrative advocacy. Also, the providers make

extensive use of other resources in the service area, including community-based organizations that serve the same population.

In 2017 the providers closed a total of 21,897 cases, which includes both staff and pro bono cases.

- 33.1% were housing law cases,
- 32.5% were family law cases, and
- 8% were consumer/finance cases.

Services are aggregated into two categories: brief service and extended service. Brief service includes the counsel-and-advice category and the limited-action category, like writing a letter, making a phone call, or preparing a simple document. Extended service includes negotiating settlements, filing and arguing cases in court or administrative hearings, and other activities, like extensive document preparation. In 2017 approximately 84% were closed as advice and/or brief service and 16% as extended service.

The providers outlined cases that reflect the full spectrum of legal services given in the SAR they completed. Examples of typical cases are as follows:

Community Legal Education: CNPLS's Immigration Law Project (ILP), Housing/Consumer Law Unit, and other units that serve seniors, disabled adults, and veterans hold many community outreach and education workshops. Technology plays an important part in this work. Using laptops for PowerPoint presentations allows attorneys to effectively work remotely in outreach settings. This equipment optimizes CNPLS's ability to include PowerPoint technology in its presentations, allowing it to communicate in visual, aural, read/write, and kinesthetic sensory modalities (VARK), making it easier for its attendees to receive information responsive to their varied approaches to learning.

Direct Representation: OLC reports that when Manuel appeared before a state judge in response to a highly dubious claim of trespass, the judge released him on his own recognizance, directing him to go to the local county jail solely for the purpose of being fingerprinted and immediately releasing him from state custody. Instead, pursuant to an unconstitutional policy that was in direct violation of a 2014 federal court decision in Oregon (a case also handled by OLC), the county jail unlawfully held him for Immigration and Customs Enforcement (ICE) without a warrant, court order, or good cause to believe that he had committed a crime that warranted holding him. The insurance defense lawyer who represented the jail quickly settled Manuel's federal court case by paying damages and changing the jail's policy.

Major Cases and Projects That Have Systemic Impact: LASO's advocacy changed an illegal practice by a housing authority that caused serious financial harm to low-income families. A private attorney regularly represented the housing authority in evictions actions. The private attorney entered into stipulated agreements with the housing authority's residents that included agreements to pay attorney's fees and costs. The housing authority was conditioning ongoing tenancy in public housing on the repayment of attorney's fees and court costs each month through these stipulated agreements, in violation of federal law. LASO's research showed that the housing authority was regularly imposing massive fees on low-income tenants. LASO advocates met with the housing authority management and convinced them to stop violating federal law with attempts to collect court costs and attorney's fees through the stipulated agreements.

Integrating the Resources of the Legal Profession: The legal profession is a valuable resource in addressing the needs of the low-income community and should be integrated to the greatest extent possible into a provider's efforts to provide a full spectrum of legal services that respond to its clients' needs. Oregon legal aid providers

all report that pro bono attorney involvement is an integrated part of the structure used to deliver high-quality legal services.

Because LASO is obligated to spend 12.5% of its federal Legal Services Corporation (LSC) funds on pro bono activities, LASO houses both the Volunteer Lawyer Project of the Portland Regional Office and the Statewide Pro Bono Coordinator. The Volunteer Lawyer Project has existed for over 35 years and serves about 2000 clients annually through various clinics mostly in the Multnomah County area. The Statewide Pro Bono Coordinator is a relatively new position. This position was created to improve pro bono opportunities throughout the state by helping rural offices develop better pro bono programs. One particular innovative project is Oregon's first "Virtual Legal Clinic" that serves clients from the Bend service area. This is a partnership between LASO and Miller Nash Graham & Dunn (MNGD) and links MNGD attorneys from their urban offices in Portland, Vancouver, and Seattle to legal aid clients in rural Central Oregon living in Jefferson, Deschutes, and Crook Counties. The Statewide Pro Bono Coordinator reported that a similar model is being pursued to serve the Coos Bay area.

The LASO Pendleton Regional Office is also innovative in how it incorporates the use of pro bono attorneys. The Regional Manager has developed a system of pro bono attorneys who provide intake and some brief service at several locations throughout its geographically wide service area. This accomplishes two things. It increases services to clients in geographical areas that are hard to reach and creates a greater connection to the private bar.

Recommendation 4.1 The providers should continue to set advocacy goals that incorporate a wide range of legal services to efficiently and effectively serve the assessed needs of the client community.

Performance Area Five: Achieving High Quality of Legal Services

Delivering high-quality legal services is a fundamental requirement of the OSB LSP. This area includes approaches for reviewing/supervising legal work, methods for assigning cases to legal staff, supervising support and fiscal staff, technical support, evaluating staff, training staff, recruiting and retaining diverse qualified staff, and ensuring zealous advocacy of clients.

Criterion 5.1 Providers Should Utilize Technology to Support Efficient Operations and Promote High-Quality and Responsive Service.

Finding 5.1 The 2016 Accountability Report recommended that CNPLS and LCLAC purchase new modern case management systems (CMS). It was expected to cost about \$70,000 in implementation fees plus monthly maintenance costs to adopt a new CMS at LCLAC; however, when LCLAC merged with OLC, the existing LegalServer implementation at OLC was expanded to also serve LCLAC at zero cost. Since the last report, CNPLS has implemented the LegalServer CMS. Now, LASO, OLC, and CNPLS all use the same modern, web-based CMS. LASO and OLC make use of LegalServer's ability to keep time, calendar, check conflicts, manage grant spending, collect and report data, generate documents, coordinate pro bono projects, organize client documents, efficiently record client communications, and consistently process case intake and case closures. CNPLS has just begun to use the features of its LegalServer implementation, presently primarily relying on the system for intake and conflict checks.

The expandability of LegalServer is an important tool as technology continues to change. In 2017, LASO added the ability to send SMS text messages directly from LegalServer. This addition presents new ways to communicate with clients and new means to connect with each client in the way that is appropriate for the client. LASO and OLC are working through LegalServer on new ways to track and report on the time attorneys spend on different kinds of cases. Tracking and reporting on what kinds of cases attorneys actually spend their

time on is essential to the final step of delivering legal services that are responsive to community need, checking up on whether priorities are being met.

The 2016 Accountability Report also recommended that LCLAC upgrade its computer security system. When LCLAC merged with OLC, all new computer equipment was placed in the Lane County office, along with hardware to safely connect to OLC's secure intranet.

LASO and OLC coordinated the purchase of new desktop computers and servers. LASO and OLC moved their email to Office365, taking advantage of free services Microsoft provides to nonprofits and gaining security and efficiency benefits from not having to maintain their own email servers.

OLC and LASO continue to work closely in development and innovation relating to the two statewide legal aid community websites OregonLawHelp and Oregon Advocates. OregonLawHelp is a statewide website that contains information for the client community. Oregon Advocates is a website to provide staff and pro bono lawyers with access to sample pleadings, briefs, motions, and other documents. Recently, ProBonoNet, the web service that OregonLawHelp runs on, updated its templates to display information in a way that dynamically changes to fit mobile phones, tablets, and desktop computers.

As with the general unfamiliarity CNPLS staff had with the SSU, CNPLS staff reported a lack of familiarity with the sample pleadings, briefs, motions, and other documents available to them through Oregon Advocates.

Recommendations: LASO and OLC should continue to develop ways to compare the time their staff spends on brief-service versus extended-service cases, and the amount of time staff spends on impact cases. LASO should study the usefulness of their implementation of SMS messaging and report results to the other providers. CNPLS should explore the features of LegalServer and strive to find ways to improve staff efficiency by integrating the use of LegalServer into daily work. CNPLS staff should be encouraged to utilize the OregonAdvocates website to benefit from and contribute to the resources available there.

Criterion 5.2 Providers Should Implement Management Systems to Ensure a High Level of Quality Service.

Finding 5.2 OLC and LASO specifically report that they have the same policies in place to ensure that the regional offices provide quality services. The policies are outlined in two documents called Criteria for Operation of Offices and Criteria for Manager Evaluation and are consistent with the OSB LSP *Standards and Guidelines* and ABA *Standards*. The criteria in both documents are the same because the regional managing attorneys are evaluated against whether the office criteria are met. The criteria cover important areas such as the effectiveness of advocacy, setting advocacy goals, intake, management of legal work, community visibility, accessibility, private bar involvement, training and career development, office systems, OSB *Standards and Guidelines*, and financial matters. Staff evaluations take place. LASO and OLC's collective bargaining agreement and the personnel policies for managers provide procedures for staff evaluations, with regional managers evaluated every other year. The OLC and LASO staff interviewed all reported that their performance is evaluated on a consistent basis.

In addition, every quarter LASO and OLC conduct quarterly managers meetings for all the managing attorneys. Topics of discussion in 2016 and 2017 included how to conduct effective community legal education presentations, improvements to intake systems, and how to develop and effectively use work plans in supervision, to name a few. The topics covered are germane to supporting high levels of quality service.

The 2016 Accountability Report recommended that both CNPLS and LCLAC adopt a set of criteria similar to what is outlined in the Criteria for Operation of Offices and Criteria for Manager Evaluation used by OLC and LASO. When LCLAC and OLC merged on January 1, 2017, the OLC written standards became effective in the Lane

County office. It is helpful that OLC hired as the managing attorney for Lane County someone who had been the managing attorney in LASO's Bend office and was familiar with these written standards.

CNPLS did not follow through on the 2016 recommendation of adopting a set of criteria similar to what is outlined in the Criteria for Operation of Offices and Criteria for Manager Evaluation used by OLC and LASO.

Recommendation 5.2 It is recommended that CNPLS adopt and implement a set of criteria similar to that of LASO and OLC for the operation of a legal aid office and evaluation of manager performance.

Criterion 5.3 It Is Important to Recruit and Retain Highly Skilled Staff Sensitive to Low-Income Persons and Their Legal Needs and Committed to Providing High-Quality Legal Services.

Finding 5.3 The providers all report that they strive to recruit and retain diverse, qualified, and competent staff who will provide high-quality civil legal services. When openings occur, they advertise broadly, with special outreach to minority communities to increase the diversity of the applicant pool, and they set pay based on the comparable market, pay a language add-on, and offer a strong benefits package. Attorneys are provided opportunities to gain experience, receive training, have mentors, and make a difference.

Although CNPLS's staff compensation is lower than OLC and LASO, CNPLS staffing is stable and retention is not a problem. During the onsite review, CNPLS staff reported a high level of satisfaction with both their jobs and work environment.

The review team also conducted a site visit to both the LASO Pendleton office and the OLC Ontario office. It was apparent that there are issues associated with the recruitment and retention of attorneys in rural and remote regions of Oregon. This is not an issue unique to rural legal aid offices. Pendleton has 3.5 attorneys, but only two of those attorneys do general legal work, with the Regional Manager included in that number. The Regional Manager has been at the Pendleton office for many years, providing a stability that is invaluable. That said, the other staff attorney position is difficult both to recruit for and to retain. During the review team's visit, the Regional Manager was the only attorney providing general legal services, in addition to his management duties. LASO has recently hired a staff attorney to fill the position.

Currently, the OLC Ontario office is fully staffed with three attorneys, including the Regional Manager, who has been in that position for about a year and a half. The Ontario office has grappled with turnover of the Regional Manager position, and it is hoped that this position can stabilize. The Ontario office has two support staff who have been there since the office opened. They are extremely well known in the community and provide consistency and stability to an office that has seen turnover in attorney staff. They both reported that they would like to retire sometime soon. OLC should make it a priority to provide thoughtful succession planning for replacing these two support staff, since they have been such a consistent presence and stabilizing asset to the office.

It was clear that all the staff interviewed onsite were passionate and sensitive to the clients they serve and committed to providing high-quality legal work to address the problems of low-income people in their community. They all work in rural communities that have challenges unique to that area, from the legal issues their clients face to the daunting task of having a meaningful presence in geographical areas that are both large and isolated.

Recommendation 5.3 OLC should make it a priority to provide thoughtful succession planning for the two support staff positions in Ontario. In addition, providers should explore ways to minimize the challenges to recruiting and retaining attorneys to serve in the rural and remote regional offices.

Additional Compliance Standards for Providers

Standards and Guidelines C. Provider Use of Funds and Eligibility Guidelines, 3. Payment of Costs

Pursuant to the *Standards and Guidelines*, eligible clients may not be charged fees for legal services provided with funds under ORS 9.572 et seq. However, a provider may require clients to pay court filing fees or similar administrative costs associated with legal representation.

It was apparent from interviewing CNPLS staff that CNPLS asks clients for a suggested donation for providing services. The following are examples:

1. The front office staff who greet the public ask each person requesting service for a \$5 donation before giving them the application. Staff were clear that the application would not be denied if the person did not have \$5, although many people just pay it.
2. CNPLS has a schedule of fees for providing immigration legal service to clients. This too is a donation, and staff were clear that clients could pay as little as \$10 per month or nothing at all and still receive service. The fee schedule is similar to the one used by Immigration Counseling Service (ICS). ICS is a nonprofit that provides immigration legal services to low-income immigrants. The fee schedule is part of ICS's business model. ICS is different in that it does not receive funding under ORS 9.572 et seq.
3. The support staff for the public guardianship unit reported that there is a \$200 suggested donation for guardian services, and the client can pay \$10 per month.

Although CNPLS labels these payments as suggested donations and attempts to make it clear that payment is not required to receive services, it is likely that at least some clients and potential clients pay not out of a sense of detached and disinterested generosity but instead out of a sense that payment is required to receive or continue to receive good-quality assistance. Given the circumstances of people seeking or receiving assistance through a legal aid office and the fact that for many it feels like the only option they have to receive fair consideration in the legal system, all requests for donations made in the course of representation or made when a potential client is requesting representation may feel mandatory. The requests for donations that CNPLS makes are a violation of the LSP *Standards and Guidelines* requirements that programs not charge clients.

Recommendation CNPLS must stop asking applicants and clients for a suggested donation to avoid any appearance of coercive influence from a desire to receive or continue receiving services. To the extent CNPLS is required by any funder to request donations, CNPLS should assess that funding stream and take steps to minimize any related chance of or appearance of coercive influence.

Standards and Guidelines E. Provider Grievance Committee and Process

Pursuant to the *Standards and Guidelines*, providers must have an internal grievance process to address complaints about the manner or quality of legal assistance provided in individual cases and complaints about the denial of legal assistance in individual cases. In a subset of these situations, namely for complaints about the manner or quality of legal assistance that has been rendered and for complaints specifically about the denial of service where the denial was due to a determination of financial ineligibility, the provider must use a grievance process that at least provides for review by the program's director (or designee) and allows for appeal to the grievance committee of the provider's board of directors.

In addition to the providers' internal grievance processes, the LSP has its own grievance process to handle client appeals from the providers' grievance processes, complaints about violations of the *Standards and Guidelines*, and complaints about overall quality of services or performance of a provider.

In 2018, the LSP and the Legal Services Committee reviewed a complaint regarding LASO. In the course of that review, LASO was provided a set of recommendations regarding the specific grievance and regarding its grievance process in general. Among the recommendations was a call to update internal grievance materials to indicate that individuals unsatisfied with the internal grievance process can take up their concerns with the LSP after exhausting the internal process. Additionally, it was recommended that LASO review its internal procedures to ensure that it is carefully considering whether a complaint raises a concern about the manner or quality of legal assistance provided. LASO has committed to implementing these recommendations.

Recommendation All providers should review their grievance materials to ensure that clients are made aware that they may raise concerns with the LSP after exhausting internal grievance procedures.

Conclusion

The Oregon State Bar Legal Service Program's *Standards and Guidelines* set out a framework for the program and the providers to work together to address the civil legal needs of low-income Oregonians. Additionally, the *Standards* direct providers to operate in accord with the best practices presented by *ABA Standards for the Provision of Civil Legal Aid*. Key to Oregon's civil legal aid model are concepts of cooperation, assessment, and constant improvement.

It is clear that all three providers make improvements in the lives of their clients. It also clear that the staff of all three providers is competent, compassionate, and driven to provide quality civil legal services to low-income Oregonians. In short all three providers do impactful work. The *LSP Standards* and the *ABA Standards* specify what it looks like to incorporate best practices for improvement, and the recommendations throughout this report are designed to make sure the providers are in fact incorporating those practices in the way that the *Standards* dictate.

Prior to release, the Legal Services Program gave the three providers a draft of this report and asked for feedback on the report. Providers have already taken steps to address technical recommendations like modifications to grievance procedures, changes to how and when donations are sought from clients and implementing technology to allow meetings by video for greater participation in the trainings and task forces that the SSU offers.

Based on this review, the recommendations in this report, and the responses from providers, there are three issue areas the providers must focus on: cooperation, contemplative priorities and service delivery models, and staff and management evaluations based on the *Standards*. These issues are critical to improving the delivery of civil legal services in Oregon and must be promptly addressed by the providers.

Cooperation

Cooperation is key to the Performance Area One recommendations. It is the responsibility of all three providers to make sure that staff from all organizations participate in State Support Unit task force meetings and listservs to encourage lawyers to stay abreast of changes among the issues that affect low-income clients in Oregon. Similarly, it is the responsibility of all three providers to make sure managers from all organizations participate in quarterly management meetings.

This review found that CNPLS staff were less engaged with, and in some cases not aware of, task forces and listservs. It is the responsibility of CNPLS to see that staff participate; however, it is not its responsibility alone. LASO and OLC are also responsible for making sure taskforces and manager meetings are welcoming and

accessible to CNPLS staff. CNPLS has reported that steps have been taken to install cameras, microphones and software to facilitate attending meetings remotely.

Contemplative Priorities and Service Delivery Models

A contemplative process where the priorities and service delivery models flow from client needs is key to the Performance Area Two, Three, and Four recommendations. With limited funds, programs face a number of balancing acts when striving to best provide civil legal services: extended representation vs brief service; impact litigation / systemic change vs individual cases; staff specialization vs generalization of practice; how much to focus on which legal subject areas; kinds of clients to prioritize, and how, where, and to whom to do outreach. More important than the precise balancing points that each office comes to are the process of actively and contemplatively choosing the balance and change as necessary. Programs and their staff must be able to provide reasons why balancing choices are made, recognize the disadvantages of their choices and structures, and clearly show what steps will be taken to mitigate those disadvantages.

This review calls out the need for CNPLS to engage in contemplative priority setting and contemplative consideration of its delivery model to adapt to changing community needs. CNPLS does not stand alone in these efforts, the State Support Unit of OLC as well as LASO and OLC leadership must provide CNPLS with help and expertise establishing best practices for planning and priority setting.

It should be noted that accountability reviews dating back to 2004 have called for CNPLS to adopt procedures for establishing priorities for the use of resources pursuant to the *OSB-LSP Standards and Guidelines*

Evaluation

Evaluation to ensure that offices provide quality services pursuant to the *Standards and Guidelines and ABA Standards* is key to the Performance Area Five recommendations. All providers must engage in evaluating their efforts, management, and staff against the goals of the *Standards and Guidelines and ABA Standards*. This includes regular office management and staff evaluation. OLC and LASO have incorporated the use of two documents called Criteria for Operation of Offices and Criteria for Manager Evaluation that are consistent with the *Standards and Guidelines and ABA Standards*. It recommended that CNPLS adopt and implement a similar set of criteria for the operation of their office and evaluation of performance. Evaluation also includes using case and time data to determine if priorities and the service delivery balance targets are met.

Evaluation also includes assessing succession risks, particularly in hard to staff offices. This review shows staff turnover/succession risk for OLC's Ontario office and potential risk is likely elsewhere for both LASO, OLC and CNPLS.

We look forward to our continued work with the providers to improve the civil legal services available to low-income Oregonians and to improve the lives of low-income Oregonians. The next Accountability Analysis will take place in 2020. The review will focus on whether steps have been taken to address the recommendations outlined in this report to assure satisfactory compliance with the *Standards and Guidelines* pursuant to ORS 9.576.

Appendix 1: Survey

As part of the review process, the OSB sent feedback surveys to 544 individuals identified by the legal service providers. Individuals fell into four categories: community partners (199), attorney partners (119), opposing counsel (111), and judges (115). Each category of respondent received a slightly different survey reflecting those respondents' interactions with the providers. Common to all surveys was a series of questions ranking the quality of work performed by providers and their attorneys. Additionally, each survey asked respondents to freely respond to a question asking for the reputation of legal aid attorneys in their communities.

Responses were distributed across the three providers, and no single provider stood out as different from the others. When looking at individual providers, particularly with opposing counsel and judges, the number of responses were too low to get an individual feel. For all groups, a combined summary of responses is presented for all providers together.

Community Partners

Sixty-three community partners completed the survey out of 199 requests sent out. Responses were almost completely positive. Only three of the survey respondents gave negative marks to a provider on the questions regarding the quality of work performed by attorneys and providers. Two of those provided consistently negative responses, and the third responded negatively in only two categories.

For all quality-of-work questions, the most selected response was "strongly agree" with statements about quality work. Seventy-one percent of respondents strongly agreed that "working with the legal aid organization benefitted my organization." Sixty-eight percent of respondents strongly agreed that "legal aid attorneys are well informed in the areas of law or indigent services my organization is involved with." Sixty-six percent strongly agree that "working with the legal aid organization benefited the clients we serve."

Comments following the quality questions were overwhelmingly positive. Words like "awesome" and "above and beyond" were common. One respondent stated, "Legal Aid in Lincoln County is more beneficial to my shared customers at DHS than words can express." Negative comments connected with a need for more funding, referring to a need for more representation and offices closer to clients in the more remote service regions.

Thirty percent of respondents indicated that dealing with a legal aid attorney led their organization to change policies or practice.

Similar to the 2014 survey, when asked about the overall reputation of legal aid attorneys, comments consistently reported that the staff are well respected and that there are not enough of them. One comment succinctly stated, "Over-worked, under-funded and very reputable." A handful of comments stated that the attorneys are never available or commented about offices being located in different counties, making it difficult for clients to receive service. Both of these kinds of comments reflect staffing and office-location decisions made by the providers and driven by funding.

Co-Counsel & Pro Bono Attorneys

Thirty-five of 111 co-counsel or pro bono attorneys responded to the survey. These attorneys either partnered with a legal aid provider to represent clients or volunteered to take pro bono cases screened by a legal aid provider. Again, responses were almost completely positive. One respondent rated legal aid "neutral" on four

quality measures and strongly negatively on two quality measures—local bar and community involvement and efficiency in the use of judicial resources. Two respondents rated negatively and one respondent rated neutrally on the bar and community involvement of legal aid attorneys. One of these respondents noted that there was increasing effort to “engage the local bar beyond the normal non-lawyer service providers.”

As with community partners, the most frequent selection for all quality measures was strongly positive. About one quarter of respondents indicated that they did not know in response to questions about community and bar engagement, appropriate use of time and resources, and appropriate use of judicial resources.

In response to questions about the reputation of legal aid, the most common descriptive word in the 26 responses was “Excellent”. It was repeatedly noted that attorneys are committed but under-resourced.

Two respondents indicated that legal aid could achieve a better outcome with different behavior. One called for prioritizing more impact litigation even if it reduces the number of individual service cases that can be taken. The other noted:

“I believe that the reticence to cooperate and collaborate with social service providers, social groups and the media in an open and transparent way reduces the effectiveness of legal aid. It also reduces fundraising from the general public.”

Both of these reflect on legal aid’s long-running reluctance to publicize its victories, partnerships, and systemic change pursuits. That reluctance to draw attention may cause fewer attacks from those opposed to legal aid’s efforts to end poverty; however, it also blinds allies, hindering success in fundraising and suppressing public opinion. A lack of visibility of the work being done by legal aid was a detail that came out in this same section of the same survey with co-counsel in 2014.

Eighty percent of respondents were pro bono volunteers with legal aid. All but one responded that they had a positive experience volunteering, with two-thirds strongly agreeing that they had a positive experience. Two attorneys disagreed that they received adequate training from legal aid; however, one of these attorneys reported volunteering with a project where legal aid partners with the attorney’s firm and received training from the firm. The other reported taking referral cases and not participating in a formal targeted pro bono project. Two attorneys disagreed that they received adequate supervision. One of these received supervision from the attorney’s firm in a legal aid partnered project, and the other did not provide additional details.

Just as in 2014, 50% of pro bono volunteer indicated that they report their volunteer hours to the Oregon State Bar.

Opposing Counsel

Only nine of 111 opposing counsel attorneys responded to the survey. Incidentally, this is the same number who responded in 2014. The low response rate—8%—is in some ways an indicator that legal aid is providing competent and professional counsel. It is expected that a lack of strong feelings neither strongly positive nor strongly negative would create a low response rate. The relatively high response rate from partners and co-counsel indicates that the survey itself was not a barrier to response.

The responses to quality-related questions were more evenly distributed between positive and negative responses for opposing counsel than other survey takers. Some areas are noteworthy. In response to “Legal aid attorneys behave in an ethically appropriate manner,” all responses were neutral or positive. In response to

"legal aid attorneys spend appropriate time and resources on their cases," the most common response was negative and 56% of responses were either negative or strongly negative.

In response to the question of legal aid attorney reputation, responses were mixed; several reported a generally good reputation, but some noted difficulties. One noted a reputation for being strong advocates but difficult to deal with. Another noted that they thought legal aid took cases without merit and expressed a low opinion of legal aid's clients.

Again, these responses need to be read in context with the 92% who did not have strong enough opinions either positive or negative to respond to the survey.

Judges

Eighteen of 115 judges asked to complete the survey responded. As with opposing counsel, this low response rate—16%—can be interpreted as indicating a lack of strong positive or negative feelings from judges.

Unlike the opposing counsel responses, the responses on quality-of-work questions from judges were all positive or extremely positive, except for one neutral response each on three of the questions.

Only one judge noted that a legal aid attorney could have achieved a better result with different behavior. The judge noted a need to be more strategic with evidentiary objections, particularly when dealing with self-represented parties on the other side.

When asked about the reputation of legal aid attorneys, responses were generally positive. The comment of one judge reflects the general overall feel of comments:

"Our legal aid attorneys always do a great job for their clients and we are happy to see them involved in a case. There are not enough of them."

Two comments noted that newer attorneys could use more experience, mentoring, or organization in their presentations.

Conclusions

The primary purpose of the surveys is to identify if there are areas of concern that require further investigation. The overall view of legal aid and legal aid attorneys is positive, and there are no major areas of concern. Criticisms fit into three categories that suggest some minor areas to either continue paying attention to or to watch in the future.

1. Resource scarcity issues – A number of comments remarked on the need for more attorneys, difficulty in clients getting access to help due to time constraints, and offices located outside the county where clients reside. All of these comments relate to a need for more resources to allow legal aid providers to reach more clients. These comments also make clear the need for providers to continue to thoughtfully determine where to locate offices, thoughtfully determine the balance between full-service and brief-service cases, and thoughtfully provide resources to assist low-income pro se court users who cannot be provided caseworker time due to resource scarcity.
2. Publicity issues – Comments from opposing counsel about legal aid taking unmeritorious cases and comments from partner attorneys about the need to focus on more impact cases and more cooperation reflect gaps in public awareness regarding legal aid's strategies, successes, and case acceptance priorities.

Increased public involvement in the priority-setting process and public unveiling of priorities and strategic goals could help address these views. Additionally, sharing successes in systemic change litigation cases could help the legal profession understand the breadth of work performed by legal aid providers in Oregon.

3. Training and new-lawyer retention issues – Three comments touched on the turnover of new lawyers, and two connected that to the need for more trial skill and mentoring. These comments show the need to continue to focus on new-lawyer training and trial skill assistance from the SSU, and to make sure there is a spread of experience in the caseworker staff of programs.

DRAFT

Appendix 2: Outcome Measures

The providers reported outcome measures for cases closed in 2017 that involved litigation or settlement to show how effective the legal service was. The measure and results are as follows (includes outcomes from LASO, OLC, and CNPLS) and reflect the excellent work that legal aid does for their clients.

CNPLS

- Client achieved a positive result – 80%
- As a result of our representation and as relevant to the client's individual situation, in the attorney's reasonable assessment:
 1. The client is physically safer – 72%
 2. The client is better able to keep children safe – 75%
 3. The client has obtained or maintained housing – 65%
 4. The client has improved housing conditions – 65%
 5. The client is more economically secure – 90%
 6. The case benefitted the client's family or household members – 75%
 7. The case will benefit other low-income clients – 50%
 8. Where a positive result was not achieved, cases filed for strategic reason – 50%

LASO

- Client achieved a positive result – 90%
- As a result of our representation and as relevant to the client's individual situation, in the attorney's reasonable assessment:
 1. The client is physically safer – 84%
 2. The client is better able to keep children safe – 84%
 3. The client has obtained or maintained housing – 79%
 4. The client has improved housing conditions – 65%
 5. The client is more economically secure – 84%
 6. The case benefitted the client's family or household members – 90%
 7. The case will benefit other low-income clients – 28%
 8. Where a positive result was not achieved, cases filed for strategic reason – 21%

OLC

- Client achieved a positive result – 96%
- As a result of our representation and as relevant to the client's individual situation, in the attorney's reasonable assessment:
 1. The client is physically safer – 93%
 2. The client is better able to keep children safe – 92%
 3. The client has obtained or maintained housing – 85%
 4. The client has improved housing conditions – 66%
 5. The client is more economically secure – 90%
 6. The case benefitted the client's family or household members – 92%
 7. The case will benefit other low-income clients – 43%
 8. Where a positive result was not achieved, cases filed for strategic reason – 57%

Appendix 3: Financial Review

As part of the review process, the financial health of the legal service providers was assessed. First, independent audit reports submitted by the providers were reviewed. No concerns were raised by the audit reports. Second data from each provider's four most recent tax returns were used to analyze each provider, using Charity Navigator's financial health assessment methodology¹. The methodology determines a charity's program, administrative, and fundraising expense ratios, as well as other factors including working capital ratio and liabilities-to-assets ratio over one to four years depending on the metric. All three legal service providers received good to excellent scores.

Both LASO and OLC spend 89% of their funds on program expenses and 10% on administrative expenses. CNPLS is roughly equivalent, spending 85% on program expenses, 14% on administration, and, because of some direct fundraising work, 1% on fundraising. The high percentage of funds going to program expenses shows the administrative efficiency of Oregon's legal aid delivery system. All three organizations maintain reasonable reserves: LASO holds an approximately six-month reserve, OLC an eight-month reserve, and CNPLS an approximately one-year reserve. These reserves are appropriate to help smooth cash flow but not so large as to slow the delivery of services. Finally, all three organizations maintain appropriate liabilities-to-assets ratios.

No concerns were raised by the summary-level financial review of the providers.

¹ <https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=35>



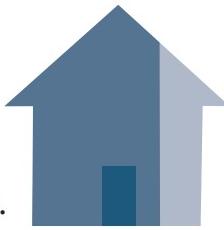
Barriers to Justice

A 2018 STUDY MEASURING THE CIVIL LEGAL NEEDS
OF LOW-INCOME OREGONIANS



Legal Problems are Widespread

75% of survey participants live in a household that experienced a legal problem in the previous 12 months.



Legal Problems Multiply

5.4 legal problems were experienced by the typical low-income household in Oregon in the last 12 months.

Fraud
Denial of Benefits
Child Abuse
Unfair Eviction
Restraining Order
Domestic Violence

The Need for Legal Aid Outpaces Resources

84% of people with a legal problem did not receive legal help of any kind.



Methodology

This report is based on a survey conducted in partnership with the Portland State University (PSU) Survey Research Lab. There were 1,017 survey participants from a statewide, address-based sample of 15,000 residents of high-poverty census blocks distributed according to Oregon's population. Participants were initially contacted by mail and completed the survey by mail, phone, or internet. The paper survey was only available in English. The web and phone surveys were conducted in both English and Spanish. PSU collected surveys during the winter of 2017-2018. To participate in the survey, participants had to have a household income at or below 125% of the federal poverty line. This is the same household income limit used to determine eligibility for legal aid in Oregon. The demographic characteristics of survey participants were analyzed (race, age, gender, etc.). The data collected was sufficient to allow for analysis of civil legal needs specific to individual groups. Additionally, researchers conducted door-to-door, in-person surveying in areas of known farmworker concentration, collecting 111 migrant farmworker responses. These were analyzed separately from the rest of the survey. For more information or to view the full statistical report from PSU go to: olf.osbar.org/LNS

Date of Publication: February 2019

Why Do We Need a Legal Needs Study?



Letter from Chief Justice Martha Walters

Every day in communities around our state, low-income Oregonians seek help from their local legal aid office. These potential clients might include a tenant facing eviction, a single mother needing to file a domestic violence protective order, or a senior citizen who cannot access his food stamps. Legal aid offices take as many cases as they can, but limited resources mean they must turn away most who seek help. This report summarizes the most recent findings about the unmet civil legal needs of low-income people in Oregon.

This is not the first time Oregon has assessed the civil legal needs of its low-income communities. The 2000 Civil Legal Needs Study was the first evaluation of the unmet civil legal needs of low-income people in Oregon since the 1970s. The 2000 study found that there was a high need for civil legal services for people with low and moderate incomes, and that the existing legal services delivery network was not adequately meeting that need. The 2000 study strengthened and spurred ongoing efforts to increase resources to address the critical legal needs of Oregon's most vulnerable citizens.

With the support of the Oregon Department of Justice, the 2018 Civil Legal Needs Study was commissioned by the Oregon Law Foundation, Oregon State Bar, Oregon Judicial Department, Campaign for Equal Justice, Legal Aid Services of Oregon, and the Oregon Law Center to assess the current ability of low-income individuals to access the civil justice system. The researchers endeavored to gather reliable and useful data to help policy makers, legislators, agencies, funders, and legal aid service providers inform their investment and service decisions. This report summarizes and highlights the key findings of the study.

The study findings are stark. Legal problems are widespread, and the impact they have on the lives of low-income individuals can be life altering. People of color, single parents, domestic violence and sexual assault survivors, people with disabilities, those with prior juvenile or criminal records, and youth experience civil legal emergencies at a higher rate than the general public. This report is both an assessment and a call to action. Despite concerted efforts over the past two decades, our state's civil justice system is not meeting the needs of Oregon's poor. When these needs go unmet, the health, safety, and resiliency of individuals, families, and entire communities are impacted.

We can and must do better.

Our justice system must help every Oregonian know what their rights are and understand where to find legal help.

Our justice system must help achieve justice for Oregon's low-income communities by addressing ongoing and large-scale injustices such as racial discrimination and the cumulative effects of poverty over time.

Every Oregonian deserves a justice system that is accessible and accountable. The legitimacy of our democracy depends on the premise that injustices can be addressed fairly within the bounds of the law, no matter who you are or where you live. Let us work together in Oregon, to ensure that justice is a right, not a privilege—for everyone.



Chief Justice, Oregon Supreme Court

Civil Legal Aid

What is It?

Civil legal aid in Oregon ensures fairness for all in the justice system, regardless of how much money a person has. Legal aid provides essential services to low-income and vulnerable Oregonians who are faced with legal emergencies.

Civil legal aid connects Oregonians with a range of services—including legal assistance and representation; free legal clinics and pro bono assistance; and access to web-based information and forms—that help guide them through complicated legal proceedings. In doing so, civil legal aid helps Oregonians protect their livelihoods, their health and safety, and their families. Legal aid helps people know and defend their rights.

Civil legal aid helps Oregonians of all backgrounds to effectively navigate the justice system, including those who face the toughest legal challenges: children, veterans, seniors, persons with disabilities, and victims of domestic violence.

Who Does it Help?

Approximately one in five Oregonians (807,000 people) has a household income below 125% of the poverty level. For a family of four, 125% of the 2018 Federal Poverty Level was \$31,375 per year. Low-income households struggle to afford even basic living expenses of food, shelter, and clothing. Poverty is pervasive in both urban and rural communities. People of color, single women with children, persons with disabilities, and those who have not obtained a high school diploma are overrepresented in the poverty population.

General Study Findings

Legal problems are widespread and seriously affect the quality of life for low-income Oregonians. A vast majority of the low-income Oregonians surveyed experienced at least one legal issue in the last year. These legal problems most often relate to basic human needs: escaping abuse, finding adequate housing, maintaining income, living free from discrimination, and accessing healthcare. Even though their legal problems are serious, most people face them alone.

Problems are Widespread

The legal needs survey asked a series of questions in 18 categories intended to reveal the kind of problems people experienced in the previous year. Each question was designed to reveal an experience where it is likely that either legal help could ease a problem or legal advice could clarify rights and obligations. The goal was to determine the issues that low-income Oregonians experienced where civil legal aid could help. In this report, a yes to one of the issue-specific questions represents a civil legal problem.

75% of study participants reported experiencing at least one civil legal problem in the preceding 12 months.

Problems are Related

Low-income Oregonians rarely experience civil legal problems in isolation, with 61% of households experiencing more than one problem in the prior year. Loss of a job can lead to loss of a home, and experiencing a sexual assault or domestic violence can lead to a torrent of civil legal problems. One-quarter of those surveyed experienced eight or more problems in the last year.

The average low-income household experienced **5.4** civil legal problems over the last year.

Civil Legal Help is Needed

84% of people with a civil legal problem did not receive legal help of any kind.

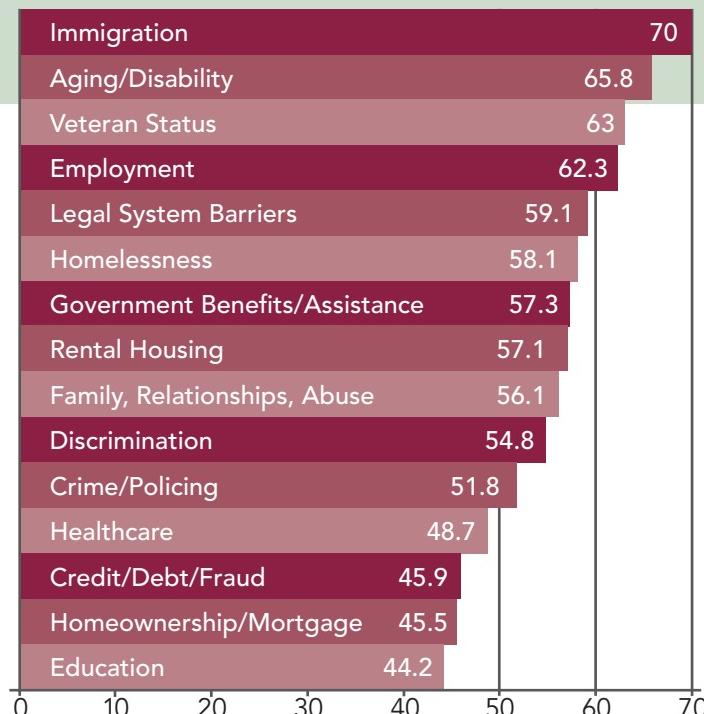
The U.S. Constitution guarantees the right to legal representation in criminal cases. This right does not extend to people with civil legal problems. This leaves the majority of low-income Oregonians to face their legal problems alone, without the help of a lawyer, regardless of how complicated or serious the case is.

The Most Harmful and Most Common Problem Areas

Civil Legal Problems Affect People's Lives

Many of the legal problems that low-income Oregonians face relate to essential life needs: maintaining housing, protecting children, or managing a health issue. For low-income Oregonians, these are not *legal issues*. Rather, they are critical *life issues*. What is certain is that poverty absolutely has an effect on the legal problems people face, as well as how those individuals experience the justice system.

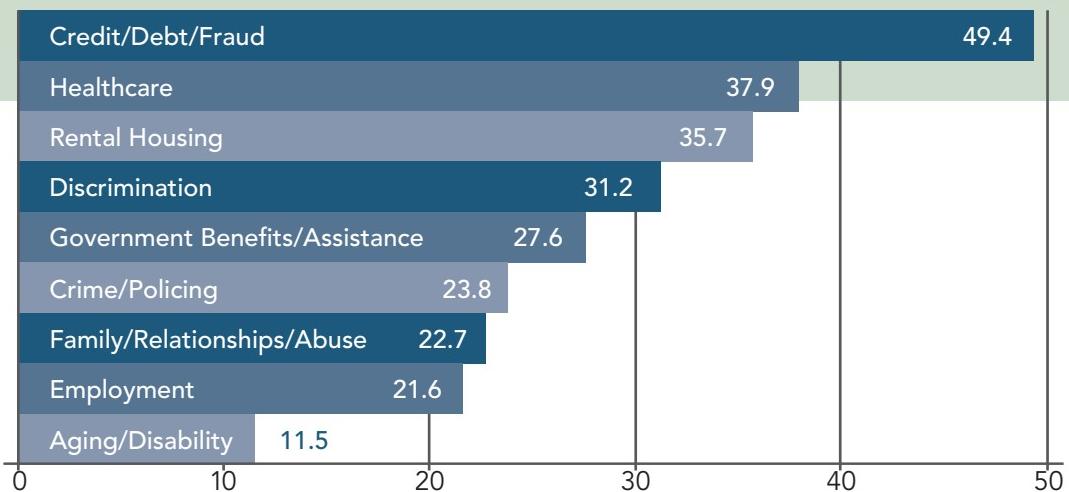
Most Harmful Issues



Percent of participants who experienced a civil legal problem in a given subject area, and who rated the effects of that civil legal problem as either very or extremely negative.

In order to determine which legal problems had the greatest direct impact on people's lives, participants were asked to rate how negatively an issue in a specific legal category affected them or their household. A five-level scale was used: not at all, slightly, moderately, very, or extremely negatively.

Most Common Problems



Percent of households that experienced at least one issue in a problem area in the last year.

Below we highlight some, but not all, of the most critical issues reported in the study. These are issues that are top priorities for legal aid, given the frequency that they occur and the severity of the impact these types of legal problems have on people's lives.

Housing and Homelessness

At the time of this legal needs study, Oregon experienced a housing and homelessness crisis. The fact that this study occurred in the middle of the housing crisis gives us the chance to see the housing-related problems people continue to experience in connection with the crisis. The study shows that in Oregon, many struggle to find affordable housing, many struggle to continue to afford the housing they are in, and nearly 1 in 10 households has experienced homelessness in the last 12 months. For low-income Oregonians, obtaining and maintaining affordable housing is a serious issue no matter what kind of housing is involved.

Rental Housing

53% of renters experienced at least one housing-related issue.

The study showed that 65% of all participants were renters. Within that category, 81% of African Americans were renters, and 71% of single parents were renters. The two most common rental housing issues are related to the unaffordability of housing: 26% of participants had trouble finding an affordable place to live and 21% reported that they could not afford a rent increase.

Habitability issues were common, with 18.1% of participants reporting problems related to their landlord failing to keep their home in a decent, safe, or clean condition. This includes problems with mold or vermin; proper roof, windows, and structure; and working heat and water. 13.4% reported threats of eviction and 12.1% reported that their landlords acted aggressively. Aggressive action by a landlord includes entering without notice, turning off utilities, locking out tenants, harming a tenant's property, or threatening any of these actions.

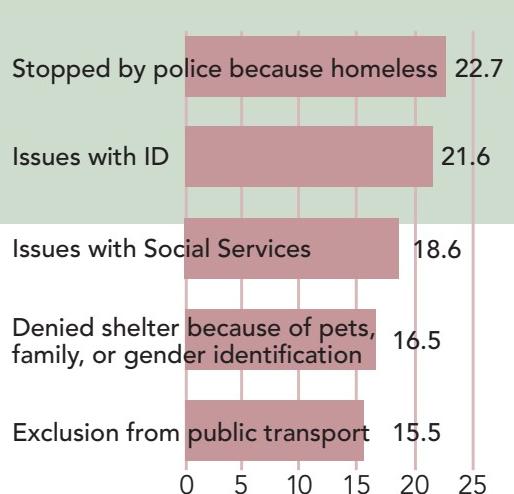
Most Highly Reported Rental Housing Problems

Percent of households that rent that experienced each rental housing problem.



Most Common Civil Legal Problems Reported by Homeless Individuals

Percent of households that reported having someone who was homeless within the prior 12 months that experienced each homelessness-related problem.



Homelessness

A staggering 10% of those who completed the survey reported that someone in their household had been homeless in the previous 12 months. That percentage bears even more weight considering that the survey was mailed to those currently residing at a physical address. These are individuals who lost their housing and regained it. Those who lost their housing and were unable to find new housing remain uncounted by this survey. Additionally, those experiencing long-term, chronic homelessness were not counted by this survey's methodology. The fact that so many experienced intermittent homelessness speaks to the depth of the housing crisis in Oregon.

Three subgroups stand out as disparately affected by homelessness. First, survivors of domestic violence and sexual assault were 6.2 times more likely to be in a household affected

10% of survey participants reported a household member had been homeless in the last 12 months.

by homelessness than the rest of the population. Second, those with criminal and juvenile records were 4.4 times more likely to be in a household affected by homelessness than the rest of the population. Third, single parents were over 2.5 times more likely to be in a household affected by homelessness than the rest of the population.

Although homelessness is often considered an urban problem, households in the most rural counties reported being affected by homelessness at a rate more than 3 times higher than that reported in the most urban counties.

Domestic Violence and Sexual Assault

Survivors of domestic violence and sexual assault (DV/SA) suffer civil legal problems at significantly higher rates compared to the general population. Their legal problems go beyond family law and abuse issues. They experience a greater rate of legal problems in nearly all of the legal subject areas in the survey: rental housing, homelessness, financial, age and disability, veterans', tribal, employment, farm work, education, government assistance, policing, healthcare, and discrimination. Violence is pervasive, causing ripples that disrupt housing, jobs, and children's educations.

Just under 10% of survey participants reported suffering DV/SA in the previous 12 months. African Americans experienced DV/SA at 2.2 times and single parents experienced DV/SA at 2.4 times the rate of those not in these groups.

Households with DV/SA survivors were:

- 6.2** times more likely to experience the effects of homelessness
- 3.7** times more likely to have an education-related issue
- 3.0** times more likely to have an employment issue
- 2.1** times more likely to have a rental housing problem

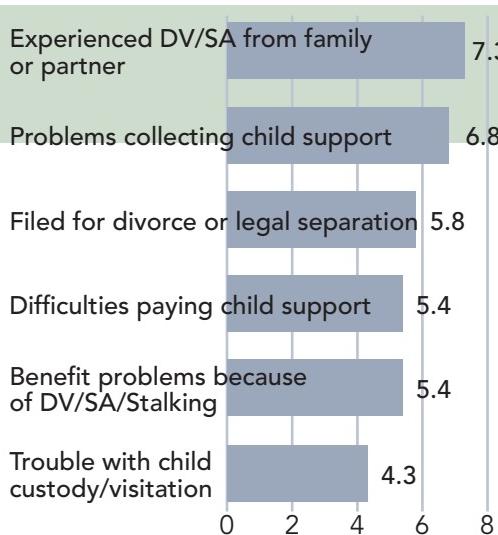


Family

Family law problems were ranked highly in both severity and frequency by survey participants. Problems related to safety and financial stability were the most critical family law issues. DV/SA at the hands of a family member or partner was the most highly-reported issue, and difficulty collecting child support was the second-most reported family law problem. Single parents and people of color disproportionately experience family law problems; single parents who were surveyed were 2.8 times more likely to have a family law problem, and African Americans were 1.5 times more likely to have a family law problem.

Most Highly Reported Family Law Problems

Percent of all participating households that experienced each family or abuse-related problem.

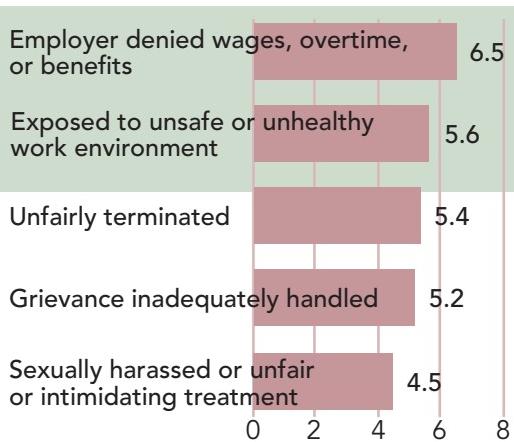


Employment

Most Highly Reported Employment Law Problems

Percent of participating households that experienced each employment problem.

For 62.3% of survey participants with an employment issue, the problem was very or extremely likely to negatively affect their life. Parenthood and involvement with the criminal justice system increased the likelihood that a survey participant would have an employment legal problem. The more children a participant had, the more likely they were to have an employment law problem.



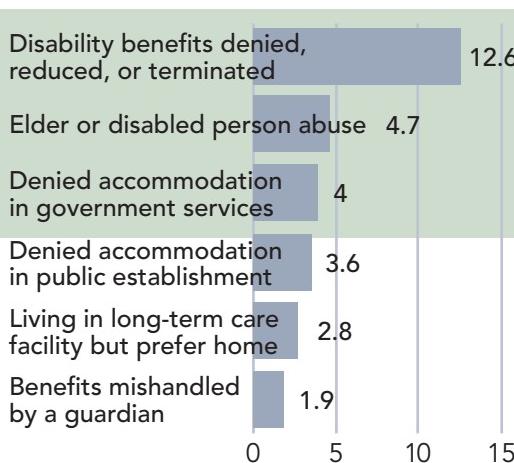
Single parents were 1.4 times more likely to have an issue with employment. People with criminal or juvenile records were 1.5 times more likely to have an issue. Frequency of employment issues was also a problem, as 9% of survey participants reported more than one employment issue.

Aging & Disability

Most Highly Reported Aging and Disability-Related Legal Problems

Percent of households that reported having someone over 65 or having someone with a disability that experienced each aging or disability-related problem.

Oregon's community of people with disabilities disproportionately experiences legal problems and is disproportionately low income. Over 44% of the households surveyed included someone with a disability. The survey also highlighted the intersectionality of race and disability, with Native Americans and Asian Pacific Islander participants being 1.9 times more likely to be affected by aging and disability-related legal problems. Single parents were 1.7 times more likely to have an issue in this area.



Immigration

As the survey was being conducted, US immigration policy was undergoing significant changes, with an impact on thousands of Oregonians. The immigration section of the survey was designed to determine the need for formal immigration help and the need for legal information to reduce fear experienced by foreign-born individuals.

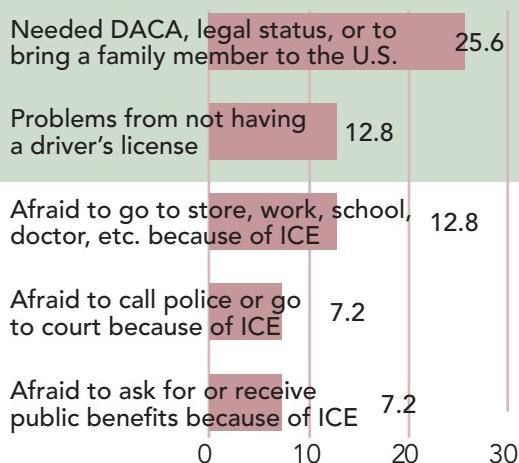
Although only 4% of all survey participants directly experienced an immigration-related legal issue, immigration problems were the most harmful of any legal problem to participants' lives. 13% of households had at least one person born outside of the US, and immigration legal issues were common in these households. For foreign-born households, immigration legal problems

were as common as rental housing problems were to the overall low-income population. It is also worth noting that there is a likelihood that under-reporting may be taking place as a result of fear of being identified as an immigrant.

12.8% of foreign-born households feared participating in the activities of daily life—work, shopping, school, seeking medical help—because of Immigration and Customs Enforcement.

Most Highly Reported Immigration Law Problems

Percent of households that reported having a foreign-born individual that experienced each immigration-related problem.



One in three foreign-born study participants had at least one immigration legal problem in their household.

50% of foreign-born/Latinx and foreign-born/Spanish-speaking participants had at least one immigration legal problem in their household.

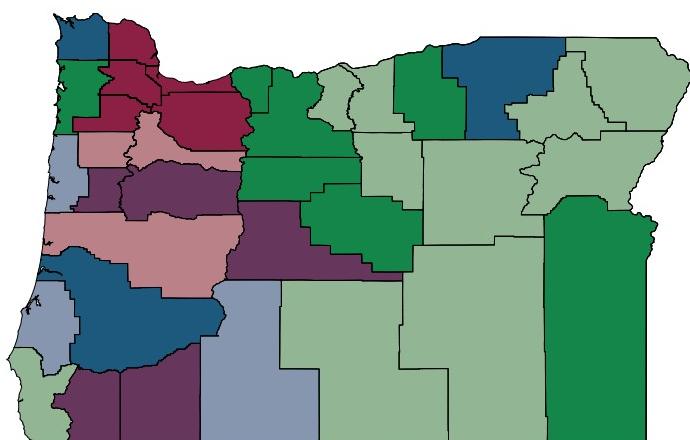
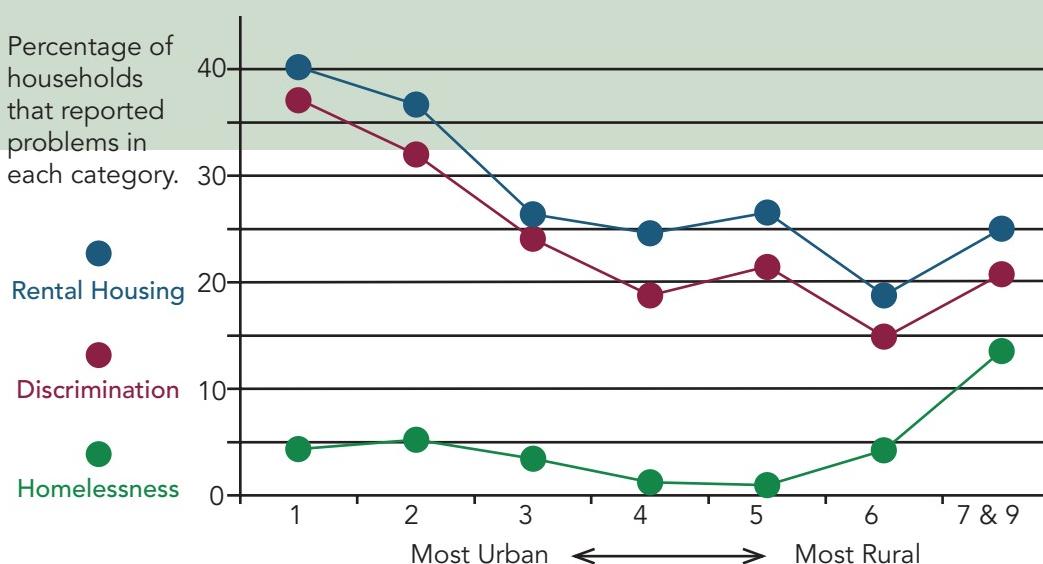
Four in five households with a foreign-born individual of African descent (from anywhere in the world) had at least one immigration legal problem in their household.

25.6% of foreign-born households needed help improving their immigration status: DACA, visa/citizenship, refugee status, etc.

Where You Live Makes a Difference

To highlight geographic differences, responses were categorized and compared based on the urbanization of the county they came from. Problems with rental housing and discrimination become more prevalent the more urban a county is. Homelessness strongly increased in prevalence as counties became more rural.

Effects of Geography on Legal Problems



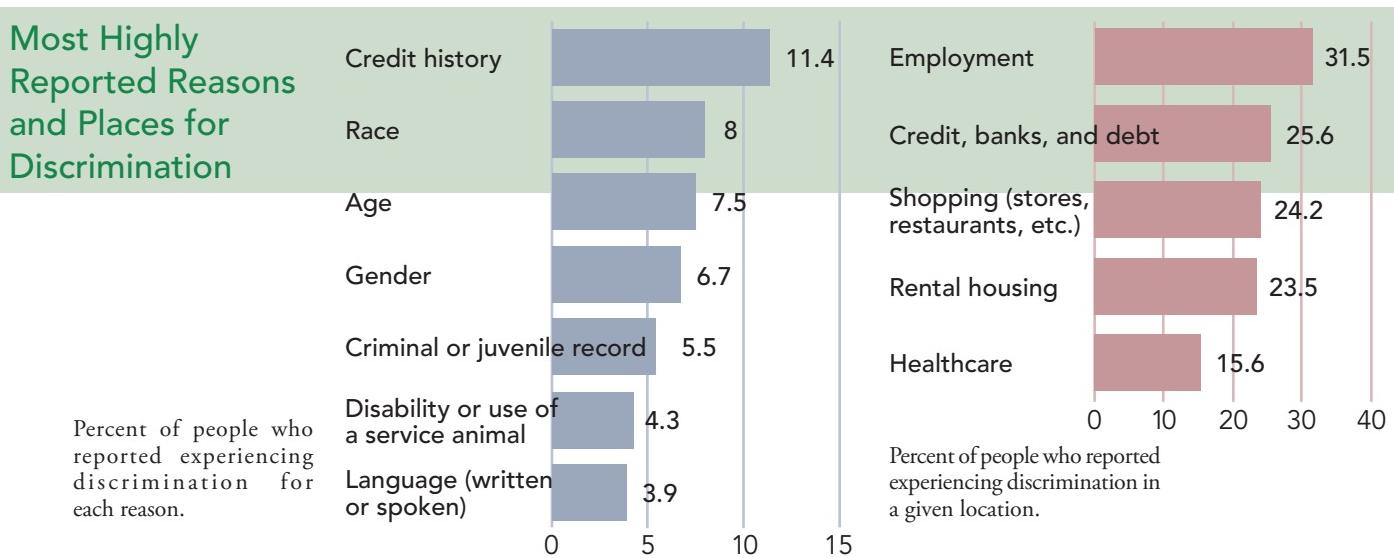
Population Categories

1	Metropolitan county with urban population > 1 million
2	Metropolitan county with urban population 250k to 1M
3	Metropolitan county with urban population under 250k
4	Urban population of 20,000 or more and adjacent to a metropolitan county
5	Urban population of 20,000 or more and not adjacent to a metropolitan county
6	Urban population 2,500 to 20,000 adjacent to a metropolitan county
7&9	< 20,000 Urban population not adjacent to an urban area

Discrimination

The survey asked participants if they experienced discrimination in the prior 12 months and where and how that discrimination was experienced.

Although the type of discrimination asked about extended far beyond race and ethnicity, racial and ethnic minorities reported significantly more discrimination:



Thirty percent of all survey participants experienced at least one form of discrimination. Forty percent of Latinx individuals, 48% of Native Americans, and 51% of African Americans experienced discrimination. People with particular backgrounds also experience discrimination at elevated rates, including 38% of single parents and 51% of people with a criminal or juvenile record.

Systemic Discrimination

African Americans

Oregon's low-income racial and ethnic minorities disproportionately experience legal problems. The survey shows that in every legal area except one, African Americans experience higher rates of civil legal issues than non-African Americans. Additionally, African Americans reported stronger negative effects than non-African Americans from the civil legal problems stemming from rental housing, tribal membership, education, policing, discrimination, and family and abuse.

African Americans were:

- 2.3 times more likely to experience homelessness**
- 2.1 times more likely to experience an education issue**
- 1.8 times more likely to experience an issue with policing**
- 1.6 times more likely to experience a rental housing issue**

Homeownership was the only area where African Americans suffered legal problems at a lower rate than the general population. Explanations for this may include systemic racism and the historic prevention of homeownership by people of color in Oregon. Only 5.9% of African-American participants and 15.7% of Latinx participants own homes, compared to 24% of all participants.

Native Americans

Similar to African Americans, Native Americans experience many more civil legal problems. In 14 of the 17 categories surveyed, Native Americans experience problems at higher rates than non-Native Americans. Native Americans also experience more negative effects from problems connected to rental housing, aging and disability, health care, and family and abuse.

Native Americans were:

- 2.7** times more likely to experience a veteran status issue than non-Native Americans
- 1.9** times more likely to experience an elderly or disability-related issue
- 1.9** times more likely to experience a mobile home issue
- 1.5** times more likely to experience homelessness
- 1.5** times more likely to experience a health care issue

Latinx participants were:

- 15** times more likely to experience immigration issues than non-Latinx Oregonians
- 1.8** times more likely to experience homelessness
- 1.7** times more likely to experience an education issue
- 1.3** times more likely to experience rental issues

Asian Americans were:

- 2.6** times more likely to experience a homeownership issue than non-Asian Americans
- 2.4** times more likely to experience a veterans' issue
- 2.1** times more likely to experience an immigration issue

Latinx

Latinx participants did not experience issues as disparately as African Americans and Native Americans, but did experience higher rates of civil legal issues than non-Latinx individuals in 9 of 17 categories. With only 59% reporting a primary language of English, language can present a significant issue for Latinx individuals trying to find solutions in a legal system that operates in English. 53% of Latinx participants reported being foreign born, and of those who were foreign born, 48% reported an immigration issue in their household. Issues related to rental housing, healthcare, immigration, and discrimination had stronger negative effects for Latinx people.

Asian American

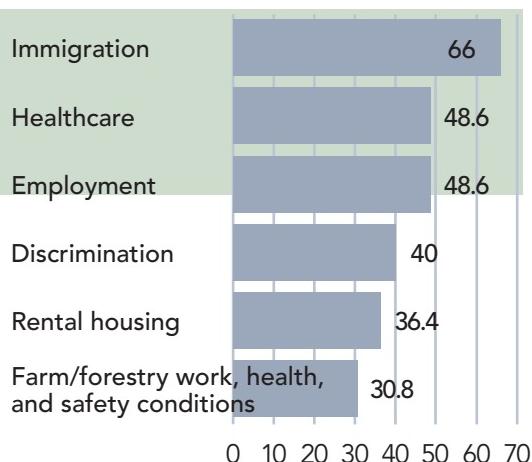
Asian American participants experienced legal problems at lower rates across most issue areas. Asian Americans did have some issue areas that stood out, including homeownership, veterans' issues, and immigration issues. However, the most significant barrier to justice was not speaking English. Only 59% of low-income Asian Americans reported English as their primary language.

The Farmworker Experience

Most Common Civil Legal Problems Reported by Farmworkers

Percent of farmworker households that experienced each legal problem area.

Farmworkers stated serious concerns about working conditions, including exposure to pesticides, unsanitary conditions, and substandard wages. A substantial number of workers reported not receiving overtime pay when due or rest breaks. With no access to affordable healthcare, the physical and psychological effects of these conditions worsened. Many workers feared retaliation from their supervisors and authorities for reporting failure to provide basic, safe working conditions. One of the most powerful themes from the survey was the high level of fear based on immigration status. These findings show an extremely vulnerable population who, for good reason, sees itself as isolated and separate from mainstream society.



Barriers to Justice

84.2% of people who needed a lawyer were unable to obtain one.

People Do Not Know Where to Go For Help

More than half of the survey participants (52.8%) who experienced a legal problem looked for legal help. Only about half of participants (49%) had heard of legal aid. Just under a quarter of participants (23.9%) tried to get a lawyer to help them. Even fewer (15.8%) were successful in obtaining any kind of help from a lawyer, including simple legal advice. For participants who were able to obtain a lawyer, help came from three main sources: private attorneys, either paid or pro bono (49.5%); legal aid lawyers (26.7%); and other nonprofit lawyers (23.8%).

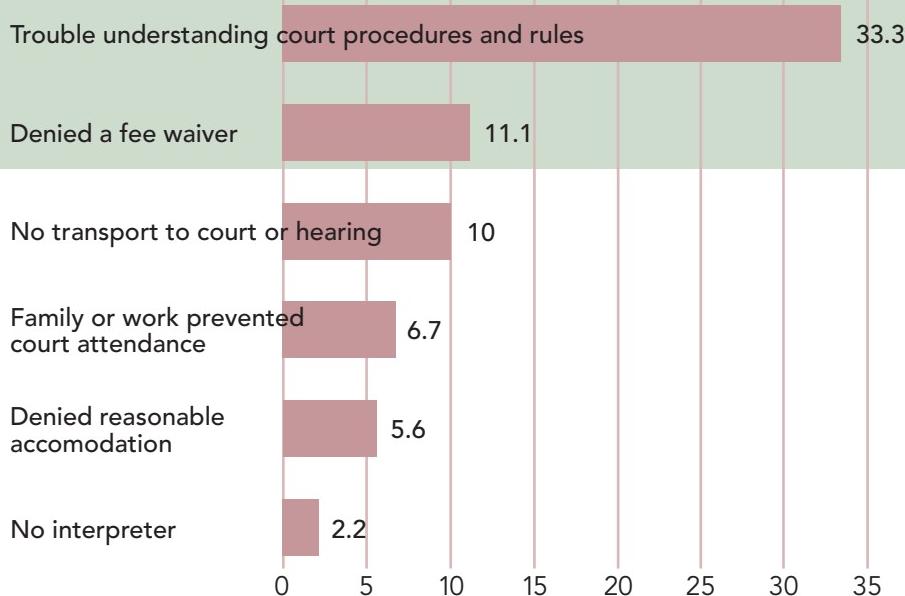
Key findings from survey participants who attempted to address their own legal problems found that: 1) white Caucasians researched legal issues at 1.5 times the rate of people of color; 2) those with internet access researched issues at 1.4 times the rate of those without the internet; and, 3) people with a bachelor's degree researched at 1.2 times the rate of those with less education. Participants who were the least likely to look for help, and arguably the least likely to know that help exists, were members of the Latinx community, particularly Spanish speakers. Latinx participants researched legal issues at 66% the rate of others, and Spanish speakers researched at 33% the rate of others.

People with Court Hearings Have Trouble Accessing the Legal System

Approximately 10% of participants had a civil or family court hearing in the previous year. Low-income participants reported several barriers to meaningfully participating in the hearing process. The largest barrier was understanding the rules and procedures in court, with more than one in three people reporting this problem. It is hard for court participants to feel a sense of just treatment when they are struggling to simply understand what is going on.

Most Highly Reported Problems Accessing the Courts

Percent of people reporting each problem with court access.



When People are Denied Access to Justice, Their Faith in the Legal System Erodes

There are costs and consequences to administering a system of justice that denies large segments of the population the ability to assert and defend their core legal rights. When someone needs an attorney and cannot obtain one, they are forced to navigate a complicated civil justice system on their own. The results are most often detrimental to the people involved. This leads to cynicism and distrust of the system, as well as a likelihood that even those with a strong chance of successfully resolving their issue will choose not to engage with the system.

To get a sense of how well the civil legal system provides low-income Oregonians with a feeling of justice, participants were asked in three different ways to rank how often the courts and the civil legal system provide fair results. In the rankings, zero represented the lowest frequency of providing justice and four represented the highest.

On average, participants felt that the civil legal system treated people fairly “some of the time,” and that the civil legal system could help solve problems slightly less than “some of the time.” Participants were least likely to feel the courts could help protect them and their rights, agreeing that only “rarely” to “some of the time” was this true.

Perceived Fairness of the Civil Legal System

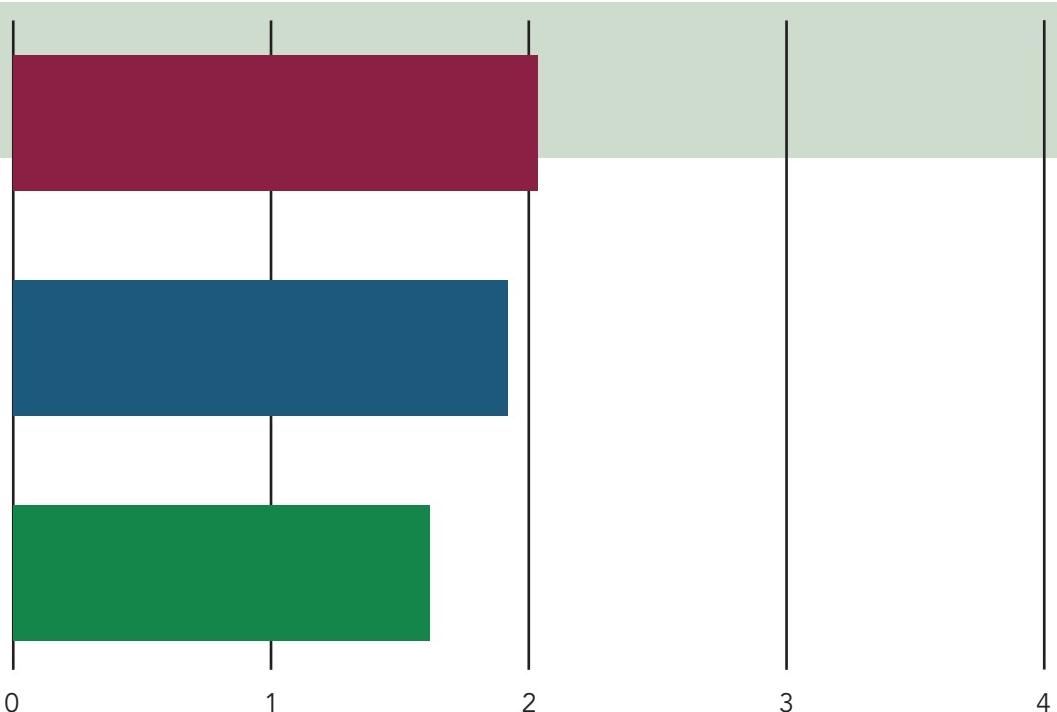
0 = “Not at all”

1 = “Rarely”

2 = “Some of the time”

3 = “Most of the time”

4 = “All of the time”



■ How often do you think you or your family, friends, or neighbors are treated fairly by the civil legal system?

■ How often do you think the civil legal system can help you, your family, friends, or neighbors solve the problems identified in the survey?

■ How often do you think you or your family, friends, or neighbors can use the courts to protect yourself/themselves and your/their rights?

The Solution

Increased Access to Legal Aid is the Best Way to Meet the Legal Needs of Low-Income Oregonians

When Oregonians who are struggling to make ends meet lack legal representation, they are effectively shut out of the justice system. To the average person, our legal system is a maze.

That is why lawyers are trained to guide their clients through the system. Civil legal aid is a lifeline—it is there to protect people with nowhere else to turn.

Legal aid provides:

- Free civil legal representation to low-income people
- Brochures, court forms, and self-help materials to help people navigate the justice system
- A website with accessible legal information available to all Oregonians
- Legal help and representation that helps stabilize families and prevent a further slide into poverty

and eliminate many of the barriers that block families living in poverty from gaining financial stability. Legal aid is deeply connected to the communities it serves, with established programs and diverse community partnerships to reach people in need.

Oregon's legal aid programs help more than 28,500 low-income and elderly Oregonians each year. Legal aid offices are located in 17 communities and they serve all 36 Oregon counties. Simply put, when legal aid gets involved, the lives of clients and the welfare of communities improve.

Breaking Through Barriers to Justice

According to national standards set by the American Bar Association, the "minimally adequate" level of staffing for legal aid is two legal aid lawyers for every 10,000 poor people. In Oregon we have two legal aid lawyers for every 14,000 poor people. We must recommit ourselves to

Justice Protects



Clara and Diego

Clara found legal aid after being severely injured by Rafe, her partner of 25 years. He came home drunk and started destroying the walls. He flew into a rage when Clara finally said "enough is enough." Concerned neighbors called 911 and watched as Clara was transported to the hospital with internal bleeding, a broken arm, and irreversible back and neck injuries. Despite years of horror, Clara only sought help when she saw how Rafe's abuse was affecting her adult daughter and her young son, Diego. Legal aid helped Clara gain full custody of Diego and resolve over \$15,000 of misdirected medical bills. They also helped her assume the mortgage that Rafe refused to pay after he moved out, collecting evidence to show that Clara had been contributing all along, although Rafe's was the only name on the loan documents. After suffering at Rafe's hands for decades, Clara credits her legal aid lawyer's patience and skill for giving her the confidence she needed to overcome fear, stand up for her rights, and regain safety. She explained that her lawyer would say, "You can do this. Don't panic. Just come along when you can." Clara and her son Diego are an inspiration, as is the legal aid lawyer who is helping her navigate this long journey.

the reasonable and necessary goal of providing “minimum access to justice.” The 2014 Oregon Taskforce on Legal Aid Funding, which included elected officials and leaders in the legal community, concluded that we need to double the resources for Oregon’s legal aid programs in order to have minimally adequate access to justice.

What Can I Do?

What Can Oregon Leaders do to Address the Civil Legal Needs of Vulnerable Oregonians? Take Action!

When we say the Pledge of Allegiance, we close with “justice for all.” We need programs like civil legal aid to ensure that the very principle our country’s founders envisioned remains alive: justice for all, not just for the few who can afford it.

Educate

Talk about the importance of access to justice. Let people know that civil legal aid is there for those who need help. Share this report. The information in this report is not widely known and it is hard to solve problems that no one is talking about. Let’s amplify the conversation.

Speak Up

Oregon has broad bipartisan support for legal aid at the local, state, and federal levels. As a community, let’s continue our sustained focus on a fair and accessible legal system—a system where our neighbors can know their rights and get the help they need.

Fund Legal Aid

Legal aid is a state, federal, and private partnership. Legal aid receives funding from the State of Oregon, the federal government (Legal Services Corporation), private foundations, Interest on Lawyer Trust Accounts (Oregon Law Foundation), and private donations (Campaign for Equal Justice). The single best way to increase access to justice is to help us create more legal aid attorney positions.

Justice Heals



Noelle and Poppy

Noelle’s daughter Poppy was born with Apert’s Syndrome, a rare and complex condition that caused her fingers to be fused together. For Poppy to have full use of her hands, she needed very specialized reconstructive surgery. Noelle connected with a surgeon in Boston who specializes in this type of surgery and who was confident that he could give Poppy ten working fingers. But Noelle’s health plan provider denied the request to use this specialist, citing the cost, and insisted that Noelle use a local surgeon. None of the experienced hand surgeons in Oregon felt confident that they could give Poppy ten fingers. The cycle of requests, denials, and appeals for Poppy’s essential surgery went on for three years, despite the Boston specialist waiving his fees to make the surgery less expensive. Noelle desperately wanted Poppy to have ten working fingers before she began kindergarten, and time was running out. Luckily, Noelle found legal aid, and they began working on the next appeal together. Having an attorney step in to ask questions, request documents, and review processes made all the difference. Just before the appeal hearing, the health plan changed course and gave full permission for the surgery on the East Coast. Now Poppy is thriving with ten fully functional fingers, just in time to start school. To celebrate the one-year anniversary of the surgery, Noelle and Poppy threw a “birthday party” for Poppy’s hands and invited their legal aid lawyer to join the celebration.

Justice Unifies



A Vulnerable Community

Legal aid received a call from two community partners about the same problem: a housing complex where the tenants were suffering because the apartments were unsanitary and unsafe. Legal aid met the clients at their homes, and found that there were 8 units in this complex that all had similar problems suggesting that the landlord had not kept up on repairs: extensive mold around exterior walls of most rooms; water damage from leaking toilets; rusted heaters and ovens; leaking fridges; filthy old carpets; and extensive cockroach and spider infestation.

The families did not ask for help or complain to their landlord because they didn't know that they had a right to live in a safe home with a basic standard of livable repair. They were all refugees—an ethnic minority that was persecuted in their own country that fled to the United States for safety. For most of these clients, their only experience with anything like a landlord-tenant relationship was being in a refugee camp. Some feared that they would be attacked or killed if they complained to the landlord, and none felt they could afford to live anywhere else. Legal aid tried to work with the landlord. However, the landlord's disregard for the tenants seemed deliberate—they did not step up and do the right thing, even when they were advised of their responsibilities. Legal aid then filed suit against the landlord and reached a settlement prior to court. The families immediately got some relief from these unacceptable conditions. There is still a long road ahead for them to acclimate and to feel safe, but positive steps have started—with legal aid's help, their voices were heard and their rights respected.



Oregon State Bar
Minimum Continuing Legal Education
Rules and Regulations
(As amended effective January 1, 2019)

Rule Five

Accreditation Standards for Category II Activities

5.7 Teaching Activities.

- (a) Teaching credit may be claimed for teaching accredited continuing legal education activities or for courses in ABA or AALS accredited law schools.
- (b) Credit may be claimed for teaching other courses, provided the activity satisfies the following criteria:
 - (1) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE content standards; and
 - (2) The course is a graduate-level course offered by a university; and
 - (3) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.
- (c) Credit may not be claimed by an active member whose primary employment is as a full-time or part-time law teacher, but may be claimed by an active member who teaches on a part-time basis in addition to the member's primary employment.
- (d) No credit may be claimed for repeat presentations of previously accredited courses unless the presentation involves a substantial update of previously presented material, as determined by the MCLE Program Manager.

5.8 Legal Research and Writing.

- (1) Credit for legal research and writing activities, including the preparation of written materials for use in a teaching activity may be claimed provided the activity satisfies the following criteria:
 - (a) It deals primarily with one or more of the types of issues for which group CLE activities can be accredited as described in Rule 5.13; and
 - (b) It has been published in the form of articles, CLE course materials, chapters, or books, or issued as a final product of the Legal Ethics Committee or a final instruction of the Uniform Civil Jury Instructions Committee or the Uniform Criminal Jury Instructions Committee, personally authored or edited in whole or in substantial part, by the applicant; and
 - (c) It contributes substantially to the legal education of the applicant and other attorneys; and
 - (d) It is not done in the regular course of the active member's primary employment.
- (2) The number of credit hours shall be determined by the MCLE Program Manager, based on the contribution of the written materials to the professional competency of the applicant and other

attorneys.

5.9 Service as a Bar Examiner. Credit may be claimed for service as a bar examiner for Oregon, provided that the service includes personally writing or grading a question for the Oregon bar exam during the reporting period.

5.10 Legal Ethics Service. Credit may be claimed for serving on the Oregon State Bar Legal Ethics Committee, Client Security Fund Committee, Commission on Judicial Fitness & Disability, Oregon Judicial Conference Judicial Conduct Committee, State Professional Responsibility Board, and Disciplinary Board or serving as volunteer bar counsel or volunteer counsel to an accused in Oregon disciplinary proceedings.

5.11 Credit for Committee and Council Service. Credit may be claimed for serving on committees that are responsible for drafting court rules or jury instructions that are designed to aid the judicial system and improve the judicial process. Examples include service on the Oregon State Bar Uniform Civil Jury Instructions Committee, Uniform Criminal Jury Instructions Committee, Oregon Council on Court Procedures, Uniform Trial Court Rules Committee, and the Federal Bar Association's Local Rules Advisory Committee.

5.12 Service as a Judge Pro Tempore. Credit may be claimed for volunteer service as a judge pro tempore.

Regulations to MCLE Rule 5

Accreditation Standards

5.200 Category II Activities.

- (a) Teaching credit may be claimed at a ratio of one credit hour for each sixty minutes of actual instruction.
- (b) With the exception of panel presentations, when calculating credit for teaching activities pursuant to MCLE Rule 5.6, for presentations where there are multiple presenters for one session, the number of minutes of actual instruction will be divided by the number of presenters unless notified otherwise by the presenter. Members who participate in panel presentations may receive credit for the total number of minutes of actual instruction.
- (c) For the purposes of accreditation of Legal Research and Writing, all credit hours shall be deemed earned on the date of publication or issuance of the written work.
- (d) One hour of credit may be claimed for each sixty minutes of research and writing, but no credit may be claimed for time spent on stylistic editing.
- (e) Credit may be claimed for Legal Research and Writing that supplements an existing CLE publication may be accredited if the applicant provides a statement from the publisher confirming that research on the existing publication revealed no need for supplementing the publication's content.
- (f) Jury Instructions Committee Service. Members may claim two general credits for each 12 months of service. To be eligible for credit under MCLE Rule 5.11, a member of a jury instructions committee must attend at least six hours of committee meetings during the relevant 12-month period.
- (g) Service as a Bar Examiner. Three (3) credits may be claimed for writing a bar exam or local component question and three (3) credits may be claimed for grading a bar exam or local component question.
- (h) Legal Ethics Service. Members may claim two ethics credits for each twelve months of service on committees and boards listed in Rule 5.10.

(i) Oregon Council on Court Procedures Service. Members may claim three general credits for service per year. To be eligible for credit under MCLE Rule 5.11, a member must attend at least 9 hours of regularly scheduled Council meetings during the year.

(j) Service as a Judge Pro Tempore. Members may claim two (2) general credits for every 2 hours of volunteer time spent on the bench as a judge pro tempore.

DRAFT

Resolution of the Oregon State Bar

Resolution 2019-1 Termination of Certain Retirement Plans

The undersigned authorized representative of the Oregon State Bar (the “Employer”) hereby certifies that the following resolutions were duly adopted by the Employer on the date set forth below.

Resolved, that 457 deferred compensation plans identified by plan number 0036974001 (Nationwide) and Group Contract No. VB2241 (VOYA) (the “Plans”) shall be terminated as of August 30, 2019;

Resolved, that, in connection with the termination of the Plans, participants in the Plans may take a distribution of plan benefits or as permitted by other plans, roll benefits into other accepting qualified plans;

Resolved, that, any Participant balances of under \$1,000.00 shall be automatically distributed; and

Resolved, that an authorized representative should deliver an executed copy of this Adopting Resolution, which constitutes an Amendment to the Plan, to the trustee(s) named in the Plan; Resolved, that an authorized representative should take any and all steps necessary to effectuate the foregoing Resolutions, including (i) to notify the Trustee and the Administrator of the Plan of such termination; and (ii) to execute and deliver such documents and to take such other actions as may be reasonably necessary or advisable in order to effect a termination of the Plan; and (iii) to distribute any and all employee notices which may be required.

HEREBY EXECUTED as of _____ by _____.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Helen M. Hierschbiel, CEO
Re: National Conference of Bar Examiners Testing Task Force Survey

Action Recommended

Approve request from the National Conference of Bar Examiners (NCBE) Testing Task Force for assistance with distribution of a member survey.

Background

The NCBE Testing Task Force is undertaking a comprehensive study to ensure that the uniform bar examination (UBE) continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century. More information about the NCBE Testing Task Force can be found in the attached overview.

As part of its work, the NCBE Testing Task Force is developing a survey which it would like to administer nationwide with the assistance of state bar organizations. A representative of the task force contacted bar staff to request assistance with distribution of a survey to Oregon State Bar members.

OSB Bylaw 11.5(A) requires that any survey to all members of the bar have the approval of the Board regarding purpose and content prior to sending or communicating about such survey to bar members. Approval is requested now so that the survey can be promptly distributed after it is completed, which is expected to be in early June 2019.

Attachments: Overview of NCBE's Testing Task Force Study



National Conference of Bar Examiners

www.testingtaskforce.org

taskforce@ncbex.org

company/testing-task-force [in](#)

@ncbetaskforce [tw](#)

testingtaskforce [f](#)

testingtaskforce [o](#)

Overview of NCBE's Testing Task Force Study

The Testing Task Force is undertaking a comprehensive, future-focused study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century. The study will consider the content, format, delivery method, and timing of the bar examination and the MPRE, and it will be done collaboratively, with input from stakeholders solicited throughout the study.

The Task Force has selected two independent research consulting firms—[ACS Ventures LLC \(ACS\)](#) and [American Institutes for Research \(AIR\)](#)—to support its study. ACS is a psychometric consulting firm that focuses on test design, operational support, and quality assurance within the credentialing, education, and workforce sectors. AIR is a nonprofit behavioral and social science research organization that specializes in analyzing job requirements.

The goal of the Task Force's study is to develop a set of recommendations for the NCBE Board of Trustees that is supported by the research data gathered by its consultants and that takes into consideration logistical and psychometric requirements along with stakeholder input to lay the groundwork for the next generation of the bar examination. The study will proceed in overlapping phases, with each phase building on the previous ones.

PHASE 1: Stakeholder Research

The initial phase of the study, conducted by ACS, will focus on gathering stakeholder input about the bar examination. During this phase, ACS will conduct a series of focus groups and listening sessions with stakeholders (e.g., bar admission agencies, state supreme courts, bar leaders, legal educators, law students, practitioners) to gather information about uses and perceptions of the bar examination and ideas and opinions about the future direction of the bar examination in a changing legal profession. This phase will begin in November 2018 and will overlap with the beginning of Phase 2.

PHASE 2: Future-Focused Practice Analysis

Some results of the first phase of the study will help inform the second phase, a future-focused practice analysis conducted by AIR to identify the job activities (tasks) of newly licensed lawyers (NLLs) and the knowledge, skills, abilities, and other characteristics (KSAOs) required to perform them. The practice analysis will be comprehensive and systematic, based on multiple sources of job knowledge (e.g., new practitioners, supervisors, legal subject matter experts) and using multiple methods to obtain input (e.g., focus groups and surveys). It will address both the current state of the profession and expected changes to the profession in the coming years to accurately identify the critical knowledge, skills, and abilities required for competent entry-level practice now and in the future.

The practice analysis will consist of five steps, each designed to allow multiple opportunities for subject-matter experts to provide input and to build on the work done in the preceding steps. The first step is already under way.

- 1. Conduct environmental scan.** AIR will review the results of the 2012 NCBE practice analysis and other available studies, reports, articles, books, websites, and online databases to develop an initial list of tasks of NLLs and the KSAOs needed to perform those tasks.

Continued >

2. **Conduct focus groups.** AIR will conduct multiple focus groups to ask practitioners and experts about changes to the field and the future direction of the profession. AIR will also work closely with various subject matter experts, NLLs, and supervisors to refine the list of tasks and KSAOs to develop the future-focused practice analysis survey.
3. **Administer future-focused practice analysis survey.** AIR will develop an updated inventory of tasks and KSAOs informed by the first two steps and will administer a nationwide web-based survey presenting this inventory to licensed lawyers in their first five years of practice, and their supervisors, for their input. Survey respondents will provide ratings on job tasks and KSAOs that will help determine criticality to entry-level practice.
4. **Conduct linkage exercises.** AIR will conduct meetings with subject matter experts to link the critical tasks identified in the survey results to the corresponding KSAOs needed to complete each task. The purpose of the linkage exercise is to identify which KSAOs are necessary for completing the most critical work entry-level lawyers perform.
5. **Prepare practice analysis technical report.** Finally, AIR will prepare a technical report that documents its methodology, analyses, and final list of critical tasks and KSAOs. The report and the results from this study will provide the foundation for decisions regarding any future changes to the bar examination and its test specifications.

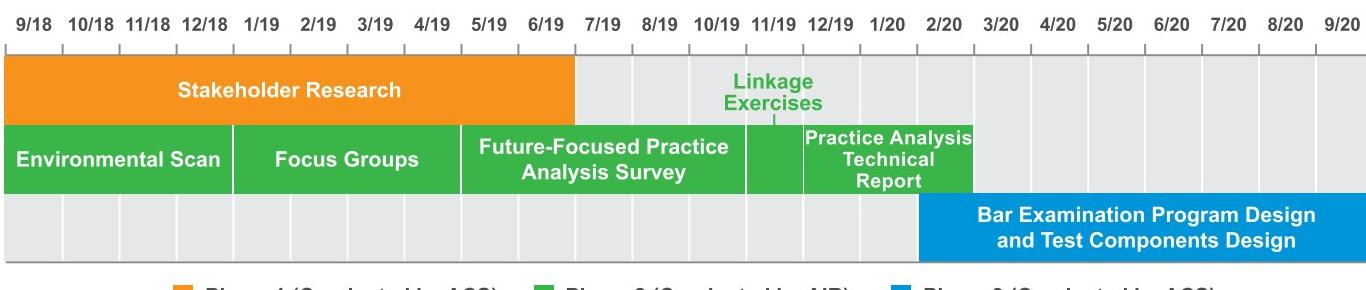
We anticipate that this phase of the study will be completed in early 2020.

PHASE 3: Bar Examination Program Design and Test Components Design

In this phase of the project, ACS will use the information collected in the first two phases to develop multiple options for program design, taking into consideration stakeholder perspectives and needs, logistical issues, best practices in high-stakes testing, and fidelity to the practice of law (representation of the professional framework of expected competencies). ACS will lead an iterative process where the Testing Task Force reviews and considers program design options and solicits comments from stakeholders. The program design plan is expected to delineate the number of exam components, the domains that each component will cover, and the expected path/relationship among the components (e.g., pass exam A before exam B, domain-specific versus general skills). ACS will then use the program design to develop recommendations for test components design. Test components design involves decisions about the measurement format, test administration plans, and scoring strategy. The test components design will present a structured plan for the development, delivery, and maintenance of each proposed test component. We anticipate that this final phase of the study will be completed by the fall of 2020.

As the study progresses, the Task Force will publish summaries and reports of findings on its website. The Task Force expects that its study will produce useful information for the benefit of all, including data and insights about core competencies that could be adopted by other stakeholders such as law schools, bar associations, employers, and others involved in ensuring that newly licensed lawyers are prepared to practice effectively and safely.

STUDY TIMELINE (September 2018 – September 2020)



From: [Laurie Elwell](#)
To: [Helen Hierschbiele](#)
Subject: NCBE Testing Task Force Study
Date: Monday, April 8, 2019 11:25:23 AM

Dear Helen,

Thanks very much for taking the time to talk with me on Friday about the NCBE Testing Task Force's study on the bar examination. I appreciate your willingness to expedite our request so that it can be discussed at your upcoming Board of Governors meeting.

As I outlined over the phone, in 2018 NCBE established a Testing Task Force that is now beginning phase two of an historic three-year study. The Task Force is preparing to launch a nationwide practice analysis survey as part of its study of the core competencies required of newly licensed lawyers. This future-focused analysis will identify the job activities/tasks of new lawyers and the knowledge, skills, and abilities required to perform them. The survey, which is being created by an independent firm, American Institutes for Research, will be available in June.

To provide more background information, I am including the link to the two-page printable summary of the research plan that we discussed: [PDF Handout TTF Research Plan](#). Additional details regarding the development of the practice analysis survey and the overall work of the Task Force can be found at [www.testingtaskforce.org](#). We anticipate sharing the results of the survey next spring.

Collaboration is a key component of the Task Force's work. As such, we are reaching out to bar associations across the country to ensure that their members have the opportunity to participate in this comprehensive undertaking. The results of this study will not only be used by NCBE to develop the next generation of the bar exam, but will have an impact on the profession as a whole.

In order to provide easy access and maximize the opportunity for input from the members of the Oregon State Bar, we would like to know if you are willing to send out an email with a link to the survey. If the State Bar is willing to distribute the survey, we will provide the link along with an explanatory email when the survey goes live in June.

We appreciate your consideration and hope that the Oregon State Bar will encourage the participation of its members by agreeing to share the survey link. Please let me know by **early May** how you would like to proceed. In the meantime, I'm happy to answer any questions that you or the members of your Board might have.

With warmest regards,

Laurie Elwell, Special Projects Coordinator

National Conference of Bar Examiners
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OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019

Memo Date: April 2, 2019

From: Dawn M. Evans, Disciplinary Counsel

Re: Disciplinary/Regulatory Counsel's Status Report

1. Decisions Received.

a. Supreme Court

Since the Board of Governors met in February 2019, the Supreme Court took the following action in disciplinary matters:

- None.

b. Disciplinary Board

Four Disciplinary Board trial panel opinions have been issued since February 2019:

- A trial panel issued an opinion in *In re Joan Terri Myzak* of Salem (dismissed).
- A trial panel issued an opinion in *In re James D. Harris* of Pittsburgh, Pennsylvania (dismissed).
- A trial panel issued an opinion in *In re Sean Michael Handlery* of Roseburg (disbarment).

Since the Board of Governors met in February 2019, the Adjudicator took the following action in disciplinary matters:

- The Adjudicator issued an order in *In re Krista L. White* of Sammamish, Washington (30-day suspension, all stayed, 1-year probation) in a reciprocal discipline proceeding as a result of her Washington discipline.

In addition to these trial panel opinions, the Adjudicator approved stipulations for discipline in: *In re Tony F. De Alicante* of Bend (reprimand), *In re Will Dennis* of Bend (reprimand), *In re M. Christian Bottoms* of Portland (30-day suspension), *In re Kevin W. Luby* of Tigard (reprimand), *In re Jennifer Barrett* of Roseburg (5-month suspension), *In re Kathleen Mercer* of Eugene (30-day suspension), *In re Sandra P. Naranjo* of Beaverton (reprimand), *In re Paul F. Sherman* of Portland (reprimand), and *In re Rankin Johnson* of Portland (6-month suspension).

The Adjudicator approved BR 7.1 suspensions in: *In re Christian V. Day* of Portland and *In re Timothy MPM Pizzo* of St. Helens.

2. Decisions Pending.

The following matters are pending before the Supreme Court:

- In re Eric J. Nisley* – 1-month suspension; respondent appealed; awaiting briefs; oral argument May 6, 2019
In re Andrew Long – disbarment; respondent appealed; awaiting briefs
In re Scott P. Bowman – stipulation pending
In re James D. Harris – dismissed; OSB appealed; filing of record due April 18, 2019
In re Justin M. Keppinger – Form B pending

The following matters are under advisement before the Adjudicator of the Disciplinary Board:

- In re Christopher K. Skagen* – reciprocal discipline matter pending
In re Gregory P. Oliveros – probation revocation pending; filed January 29, 2019
In re Andrew Long – BR 3.1 matter pending; April 23-24, 2019 hearing date

The following matters are under advisement before a trial panel of the Disciplinary Board:

- In re Elizabeth D. Logsdon* – sanctions memo filed March 1, 2019;
TPO due March 29, 2019
In re Nicholas A. Heydenrych – sanctions memo filed March 28, 2019

3. Trials.

The following matters are on our trial docket in coming weeks/months:

- In re Robert T. Mautz* – April 3-4, 2019
In re Robert D. Olsen – April 18, 2019
In re Gary B. Bertoni – April 30, May 1-2, 2019
In re Willard Merkel – May 14, 2019
In re Gregory Mark Abel – June 5-6, 2019
In re Clayton J. Lance – June 10-11, 2019
In re Andrew Long – June 12-14 and 17-20, 2019
In re Ross A. Day – July 1-3, 2019

In re Gerald Noble – July 15-18, 2019
In re Michael Schocket – July 29-30, 2019
In re Ronald M. Johnson – August 12-16, 2019
In re Gig Wyatt – August 26-27, 2019

4. Diversions.

The following diversion agreements have been entered into since September 2018:

In re Raymond Churba – March 1, 2019

5. Admonitions.

The SPRB issued 0 letters of admonitions since February 2019. The outcome in these matters is as follows:

- 0 lawyers have accepted their admonitions;
- 0 lawyers have rejected their admonition;
- 0 lawyers have asked for reconsiderations;
- 0 lawyers have time in which to accept or reject their admonition.

6. New Matters.

Below is a table of complaint numbers in 2019, compared to prior years, showing both complaints (first #) and the number of lawyers named in those complaints (second #):

MONTH	2015	2016	2017	2018	2019
January	18/19	30/30	17/17	34/34	13/13
February	28/28	38/38	49/49	25/25	20/20
March	22/22	28/30	19/20	33/33	24/24
April	17/17	26/26	22/22	31/32	
May	24/24	27/30	48/51	38/39	
June	31/31	38/39	19/20	37/37	
July	27/27	41/42	31/31	40/42	
August	28/29	28/28	24/27	14/14	
September	21/21	25/25	15/15	18/19	
October	38/39	39/39	37/37	36/36	
November	24/25	26/27	36/40	24/24	
December	20/20	25/28	27/28	13/14	
TOTALS	298/302	371/382	344/357	343/349	57/57

As of April 1, 2019, there were 179 new matters awaiting disposition by Disciplinary Counsel staff or the SPRB. Of these matters, 30% are less than three months old, 27% are three to six months old, and 43% are more than six months old. Approximately forty of these matters will be on the April SPRB agenda.

DME/rh

CLAIM YR	CLAIM #	CLAIMANT	LAWYER	CLAIM AMT	PENDING	AMOUNT PAID	INVESTIGATOR	STATUS	Deveny (capped)
2017	09	Tupper, Robert Thompson	Milstein, Jeffrey S.	\$ 2,100.00	-	\$ 1,600.00	Taylor	paid 2/15/19	
2017	16	Allen, Thomas John Robert	Milstein, Jeffrey S.	\$ 28,000.00	\$ 28,000.00		Stamm		
2017	17	Torrance, Glen M	Roller, Dale	\$ 11,000.00	\$ 11,000.00		Stamm		
2017	25	Roebuck, William	Roller, Dale	\$ 7,500.00	\$ -	\$ -	Stamm	CSF denied 3/16/19	
2017	26	Jacob, Avishaq	Johnson, Ron	\$ 1,300.00	\$ 1,300.00		Roy		
2017	33	Niklas, Louise (Trustee: Eubanks, Anne C)	Bauer, Henry L. ESTATE	\$ 24,000.00	-	\$ 4,000.00	Cooper	paid 1/4/19	
2017	46	Wise, Daniel Kevin	Smith, Robert J. ESTATE	\$ 2,000.00	\$ 2,000.00		Roy	05/20 deferred for more investigation	
2018	69	Murphy, Denelle	Howe, Nancy	\$ 4,135.00	\$ 4,135.00		Sage		
2018	79	Sims, Cody McMillen	Inhofe, Temojai	\$ 10,000.00	\$ 10,000.00		Stamm		
2018	02	Frackowiak, James	Long, Andrew	\$ 3,400.00	\$ -	\$ -	Hisey	CSF denied 1.12.19 to BOG 4.12/19	
2018	03	Evered, Andrea Burke	Johnson, Ron	\$ 3,952.50	\$ 3,952.50		Roy		
2018	04	Huebner, Jocelyn M.	Long, Andrew	\$ 200.00	\$ 200.00		Hisey		
2018	06	Ho, Amy	Solomon, Glenn	\$ 4,575.00	\$ 4,575.00		Whitlock		
2018	08	Taffese, Aster A.	Long, Andrew	\$ 5,000.00	\$ 5,000.00		Hisey	claimant rep by William Macke	
2018	10	Clausen, Ginger Lorraine	Deveny, Lori E.	\$ 51,666.00	\$ 50,000.00		Jones		50,000
2018	11	Williams, Curtis	Bernstein, James E	\$ 2,000.00	\$ -	\$ -	Whitlock	CSF denied 3/16/19	
2018	12	Stone, Jeffrey Arlo	Long, Andrew	\$ 1,500.00	-		Hisey	paid 2/22/19	
2018	13	Cleaver, Barbara	Hediger, Pamela S.	\$ 18,813.51	\$ 18,813.51		Young		
2018	15	Petersen, Robert Gary	Johnson IV, Rankin	\$ 5,000.00			Ledgerwood	BOG denied 2/22/19	
2018	16	Mitchell, Harold	Long, Andrew	\$ 9,000.00	\$ 9,000.00		Hisey		
2018	17	Mitchell, Harold	Long, Andrew	\$ 9,000.00	\$ 9,000.00		Hisey		
2018	18	McNeal, Cyndee A.	Hediger, Pamela S.	\$ 111,520.94	\$ 50,000.00		Young	claimant has rep	
2018	19	Chulim, Miguel Avila	Long, Andrew	\$ 1,640.00		\$ 2,000.00	Hisey		
2018	20	Getty, Barbara M.	Deveny, Lori E.	\$ 20,000.00	\$ -	\$ -	Jones	Paid back by Deveny in April 2018	-
2018	21	Chavez, Patricia	Hediger, Pamela S.	\$ 1,500.00	\$ 1,500.00		Young		
2018	22	Hangartner, Gwendolyn	Hediger, Pamela S.	\$ 2,749.32	\$ 2,749.32		Young		
2018	23	Hilliard, Muriel ESTATE	Hediger, Pamela S.	\$ 54,607.35	\$ 50,000.00		PR - Lester Whittle		
2018	24	Jordan, Roberta	Hediger, Pamela S.	\$ 94,664.22	\$ 50,000.00		Young		
2018	25	Turner, Justin	Hediger, Pamela S.	\$ 29,511.67	\$ 29,511.67		Young		
2018	26	Whipple, Bryan	Hediger, Pamela S.	\$ 1,999.50	\$ 1,999.50		Young		
2018	27	Whittle, Lester	Hediger, Pamela S.	\$ 15,597.39	\$ 15,597.39		Young		
2018	28	Andrews, Emily Toohey	Hediger, Pamela S.	\$ 21,431.67	\$ 21,431.67		Young		
2018	29	Ngai, Stephen	Deveny, Lori E.	\$ 6,000.00	\$ 6,000.00		Jones		6,000
2018	30	Chavez, Aimee	Hediger, Pamela S.	\$ 7,934.93	\$ 7,934.93		Young		
2018	31	Hart, Henry Roy	Hediger, Pamela S.	\$ 70,000.00	\$ 50,000.00		Young		
2018	32	Moore, Mary	Howe, Nancy	\$ 3,500.00	\$ 3,500.00		Sage	Deanna Franco Helping with Estate	
2018	33	Brandenburg, Bruce	Ramirez, Samuel	\$ 4,550.00	\$ 4,550.00		Jones		
2018	36	Tuohy, Brenden	Logsdon, Elizabeth	\$ 1,500.00	\$ 1,500.00		Roy		
2018	38	Kelley, Jonathan	Logsdon, Elizabeth	\$ 2,500.00	\$ 2,500.00		Roy		
2018	39	Guzman Fernandez, Teodora and Guzman, A	Roller, Dale	\$ 3,876.00	\$ 3,876.00		Stamm	Rep by Terry Wright	
2018	41	Fuesler, Charles	Hediger, Pamela S.	\$ 18,626.55	\$ 18,626.55		Young		
2018	42	Metcalf, James	Howe, Nancy	\$ 3,500.00	\$ 3,500.00		Sage	Deanna Franco Helping with Estate	
2018	43	Brechert, Jodi	Howe, Nancy	\$ 3,300.00	\$ 3,300.00		Ledgerwood	Deanna Franco Helping with Estate	
2018	44	Kapple, Cynthia	Hediger, Pamela S.	\$ 11,993.53	\$ 11,993.53		Young		
2018	46	Mares, John	Giles, David	\$ 2,500.00	\$ 2,500.00		Braun		
2018	47	Sever, Stephen	Hediger, Pamela S.	\$ 5,590.60	\$ 5,590.60		Young		
2018	48	Vines, Alexandria	Smith, Robert J. ESTATE	\$ 500.00	\$ 500.00		Roy		
2018	49	Williams, Shannon	Long, Andrew	\$ 31,689.29		\$ 31,689.29	Hisey	waiting for assignment of claim	
2018	50	Delaney, John	Bertoni, Gary	\$ 97,985.00	\$ 50,000.00		Thompson		
2018	51	Oliveros, Gregory	Huebner, Jocelyn M	\$ 7,800.00	\$ 7,800.00		Thompson		
2018	52	Pursel, Bonita (rep by Bierly)	Walters, Erin C	\$ 20,070.64	\$ 20,070.64		Steinberg	needs BOG approval	
2018	53	Sturn, Rebekah	Deveny, Lori E.	\$ 30,000.00	\$ 30,000.00		Jones		30,000
2018	54	Hamell, Kevin Mitchell	Deveny, Lori E.	\$ 99,728.00	\$ -	\$ 50,000.00	Jones	claim paid	-
2018	55	Hensey, Jason R	Deveny, Lori E.	\$ 37,500.00	\$ 37,500.00		Jones		37,500
2018	56	Richman, Tommy J. and Nicole	Long, Andrew	\$ 1,500.00	\$ 1,500.00		Hisey		
2018	57	Hilliker, Wesley L	Goodwin, Jeffrey	\$ 5,000.00	\$ 18,189.58		Steinberg	needs BOG approval	
2018	58	Hernandez, Denise Marie	Goodwin, Jeffrey	\$ 10,000.00	\$ 10,000.00		Steinberg		
2018	59	Gangale, Matteo	Deveny, Lori E.	\$ 127,399.10	\$ 50,000.00		Jones	claimant rep by Sean Riddell?	50,000
2018	60	Bentson, Erica and Norris, Cheryl	Deveny, Lori E.	\$ 50,000.00	\$ 50,000.00		Jones		50,000
2018	61	Shepherd, Karen A	Fachner, Ronalee	\$ 15,110.27		\$ 15,110.27	Sage	waiting for assignment of claim	
2018	62	Lazich, Julia	Howe, Nancy	\$ 5,000.00	\$ 5,000.00		Sage		
2018	63	Brown, Bryan Keith	Goodwin, Jeffrey	\$ 5,000.00	\$ -	\$ -	Steinberg	denied claim	
2018	64	Magdefrau, David	Goodwin, Jeffrey	\$ 4,227.81	\$ 4,227.81		Steinberg	waiting for assignment of claim	

CLAIM YR	CLAIM #	CLAIMANT	LAWYER	CLAIM AMT	PENDING	AMOUNT PAID	INVESTIGATOR	STATUS	Deveny (capped)
2018	65	Medley, Margaret Diane	Deveny, Lori E.	\$ 6,667.67	\$ 6,667.67		Thompson		6,668
2018	66	Elmore, Curtis Jay	Deveny, Lori E.	\$ 24,300.00	\$ 24,300.00		Thompson		24,300
2018	67	Kelly, Aleric S	Deveny, Lori E.	\$ 11,000.00	\$ 7,332.60		Thompson	needs BOG approval	11,000
2018	68	Kelly, Laurie Lynn	Deveny, Lori E.	\$ 20,000.00	\$ 13,332.00		Thompson	needs BOG approval	20,000
2018	70	Davis, Angela	Deveny, Lori E.	\$ 23,345.00	\$ 23,345.00		Ledgerwood		23,345
2018	71	McFarland, Angela	Deveny, Lori E.	\$ 60,000.00	\$ 50,000.00		Young		50,000
2018	72	McFarland, Jaime	Deveny, Lori E.	\$ 330,000.00	\$ 50,000.00		Young		50,000
2018	73	Hegwood, Jessie Suzanne	Deveny, Lori E.	\$ 50,000.00	\$ 50,000.00		Young	claimant rep by Carl Clyde	50,000
2018	74	Romero, Daniel	Deveny, Lori E.	\$ 50,000.00	\$ 50,000.00		Ledgerwood		50,000
2018	75	Sulzle, Katie Marie	Deveny, Lori E.	\$ 47,000.00	\$ 47,000.00		Ledgerwood	claimant rep by Nicholas Dazer	47,000
2018	76	Jensen, Fredrick	Petrosky, Duane K	\$ 18,500.00	\$ -	\$ -	Whitlock	denied claim	
2018	77	Stewart, Natalie	Deveny, Lori E.	\$ 6,853.20	\$ 6,853.20		Ledgerwood		6,853
2018	78	Thompson, Jerry	Deveny, Lori E.	\$ 50,000.00	\$ 33,333.33		Thompson	needs BOG approval/Arnot appealed	33,333
2018	79	McMillen-Sims, Cody	Inhofe, Temojai	\$ 10,000.00	\$ 10,000.00		Stamm		
2018	80	Hunter, Aubrey Ray	Deveny, Lori E.	\$ 500,000.00	\$ 50,000.00		Thompson	needs BOG approval	50,000
2018	81	Scurllock, Ammie	Burr, Kristine	\$ 816.00	\$ 816.00		Decker		
2018	82	Papadopoulos, Konstantinos	Deveny, Lori E.	\$ 90,000.00	\$ 50,000.00		Thompson	needs BOG approval	50,000
2018	83	Minard, Rosemary	Deveny, Lori E.	\$ 7,000.00	\$ 7,000.00		Thompson		7,000
2018	84	Burk, Kimblerlee Jo	Deveny, Lori E.	\$ 21,000.00	\$ 20,000.00		Wright	needs BOG approval	21,000
2018	85	Plank, Loreli	Deveny, Lori E.	\$ 55,629.01	\$ 50,000.00		Teed		50,000
2019	1	Zavala, Yvette	Martinez, Leslie	\$ 5,000.00	\$ 0.00	\$ -	Hytowitz	denied claim	
2019	2	Atkins, Joe	Carver, Lemarr	\$ 11,850.00	\$ 2,000.00		Bergmann	waiting on W-9 & AOC	
2019	3	Fazio, Robert	Carver, Lemarr	\$ 7,000.00	\$ 7,000.00		Bergmann	needs BOG approval	
2019	4	Martin, Max	Deveny, Lori E.	\$ 150,000.00	\$ 50,000.00		Teed		50,000
2019	5	Bautista/Sanchez, Juan & Epifania	Goodwin, Jeffrey	\$ 23,329.00	\$ 23,329.00		Steinberg		
2019	6	Karam, Patricia Diane	Deveny, Lori E.	\$ 140,392.00	\$ 50,000.00		Decker		50,000
2019	7	Thompson, Jerry	Deveny, Lori E.	\$ 10,000.00	\$ 6,666.66		Thompson	needs BOG approval/Arnot appealed	6,666
2019	8	Shorten, Barbara J.	Deveny, Lori E.	\$ 100,000.00	\$ 50,000.00		May	needs BOG approval	50,000
2019	9	Jackson, Donovan	DenHartigh, David L.	\$ 10,000.00	\$ 10,000.00		Hytowitz	claimaint in jail	
2019	10	Macario, Adelaida	Glaeser, Jess	\$ 50,000.00	\$ 50,000.00		Young		
2019	11	Benike, Kimberly	Deveny, Lori E.	\$ 50,000.00	\$ 50,000.00		Bergmann		50,000
2019	12	Grable, Hailey Elizabeth	Deveny, Lori E.	\$ 55,124.57	\$ 50,000.00		Thompson		50,000
2019	13	Munoz, Maciel	Bertoni, Gary	\$ 13,000.00	\$ 13,000.00		Hytowitz		
2019	14	Bell, Louise	Deveny, Lori E.	\$ 16,670.00	\$ 16,670.00		May		16,670
2019	15	Palacios, Eloisa	Deveny, Lori E.	\$ 24,991.90	\$ 24,991.90		Wright		24,992
2019	16	Wright, Leisa M.	Deveny, Lori E.	\$ 91,000.00	\$ 50,000.00		Bergmann		50,000
2019	17	Kertz, Laurie M.	Deveny, Lori E.	\$ 34,000.00	\$ 34,000.00		Hytowitz		34,000
		cc Lynn Haynes on all new CSF claims if member is active							
				\$ 3,425,614	\$ 1,827,563	\$ 102,800			\$ 1,156,327
		Funds available for claims and indirect costs as of December 31, 2018			\$ 1,253,514				
			Fund Excess		\$ (574,049)				
					Deveny at 100% &				
		Estimated Activity Payout Factor			70%	70%			
			Weighted \$ Amount		\$ 1,626,191.82	\$ 1,626,191.82			
			Reserve Minimum		\$ 1,000,000	\$ 0			
		Calculated Minimum Total Reserve			\$ 2,626,192	\$ 1,626,192			
			Additional Reserve Needed		\$ 1,372,678	\$ 372,678			
		2019 Assessment @ \$15/Member			\$ 225,000	\$ 225,000			
		Potential Net Additional Reserve Needed			\$ 1,147,678	\$ 147,678			
		Lori E. Deveny		\$ 2,479,933	\$ 1,110,992			Deveny Line items capped at \$50K:	\$ 1,156,327

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: Appeal of CSF Claim No. 2018-02 Long (Frackowiak)

Action Requested

Consider an appeal of the Client Security Fund Committee's denial of James Frackowiak's claim of \$3,400 in the matter of CSF Claim No. 2018-02 Long (Frackowiak).

Discussion

Mr. Frackowiak hired Mr. Long on July 26, 2017 for assistance with issues regarding a "Frackburger" location in Portland at a rate of \$300 per hour. He paid Mr. Long a \$3,100 retainer. Mr. Frackowiak asserted that Mr. Long completed two letters during the representation and had some communication with the opposing party's attorney, but did not complete the work discussed. He demanded a refund of his money in April 2018, but did not receive any return of funds.

Mr. Long has been suspended from practice since December 20, 2017. Recently, a trial panel ordered his disbarment; that order is on appeal to the Supreme Court.

The CSF investigator found that Mr. Long sent lengthy demand letters that would have required time to research and draft. While Mr. Frackowiak originally claimed he paid Mr. Long \$3,400, he clarified that he only paid Mr. Long \$3,100. Based on the investigation and a review of the work performed, the CSF investigator determined that Mr. Long only earned approximately half of the fee charged. Records were insufficient to render a complete accounting of the representation.

At its meeting on January 12, 2019, the Committee considered the claim and determined that records demonstrated that Mr. Long performed some work for Mr. Frackowiak and that work was not insubstantial. After discussion, the Committee unanimously voted that the claim be denied pursuant to CSF Rule 2.2, which provides:

"Reimbursement of a legal fee will be allowed only if: (1) the lawyer provided no legal services to the client in the engagement; or (ii) the legal services that the lawyer actually provided were, in the Committee's judgment, minimal or insignificant; or (iii) the claim is supported by a determination of a court, a fee arbitration, or an accounting or other evidence acceptable to the Committee that establishes the client is owed a refund of a legal fee. No award reimbursing a legal fee may exceed the actual fee that the client paid the lawyer."

Staff informed Mr. Frackowiak of the Committee's denial of his claim on February 15, 2019. On March 13, 2019, he emailed General Counsel to appeal the denial of his claim. In his email, Mr. Frackowiak asserts "completed no work, yet offered to do work in the same day he came to my home late at night begging me for money. The weeks following found Mr. Long suspended from practicing law and his communications changed to offers of doing lawyer work for me and having me submit it myself. I was defrauded by him. Please reconsider my claim."

Staff recommends that the board deny the claim, consistent with the CSF Committee's recommendation.

From: [Amber Hollister](#)
To: [James Robert](#)
Cc: [Jerri Shay](#)
Subject: Re: CSF LONG (Frackowiak) 2018 - 02- text demands from Frack
Date: Wednesday, March 13, 2019 12:30:24 PM

James,

I will share your request with the Board of Governors at its next meeting in April.

If you would like to submit any additional information for the Board's consideration please do so by the end of March.

Regards,
Amber

Amber Hollister
General Counsel
Oregon State Bar
503-431-6312
www.osbar.org/ethics

> On Mar 13, 2019, at 11:03 AM, James Robert <jrindustriesnw@gmail.com> wrote:

>

> Ms. Hollister:

>

> I attempted to email my appeal request to you the day I received your email and apparently it didn't go through. My apologies. Would you please extend me grace as I've repeatedly received no communication from OSBar employees, no returned phone calls, no return replies to emails (I can prove this), excuses including mailing documents to me at wrong address or email address. The process has been very frustrating to say the least. Bar employee should have repeatedly remarked that Ed Andrew Long is a suspected crook, yet, I'm being told my claim is being denied because he completed "some work"? He in fact completed no work, yet offered to do work in the same day he came to my home late at night begging me for money. The weeks following found Mr. Long suspended from practicing law and his communications changed to offers of doing lawyer work for me and having me submit it myself. I was defrauded by him. Please reconsider my claim.

>

> Thanks for your consideration.

>

> James

> 5034511026

>

> On Fri, Feb 15, 2019 at 10:03 AM James Robert

<jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>> wrote:

> Well, that's disappointing. I'll add the "error in my email address" to the list of mistakes made by your organization. I will file an appeal.

>

>

>

> On Fri, Feb 15, 2019 at 9:55 AM Amber Hollister <ahollister@osbar.org<<mailto:ahollister@osbar.org>>> wrote:

> Mr. Frackowiak,

>

> Thank you for your email and for bringing this matter to my attention.

>

> At its meeting on January 12, 2019 the Client Security Fund Committee considered your claim for reimbursement. At the committee's January 12 meeting, after discussing the facts and the requirements for eligibility for

reimbursement, the committee voted to deny your claim for \$3,400 against Andrew Long. The committee concluded that Mr. Long completed some work and therefore this is not reimbursable under Rule 2.2 and could be considered a fee dispute.

>

> We attempted to send you the attached email on January 14, however, there was a typographical error in your email address. I apologize for this oversight.

>

> Under Client Security Fund Rule 4.10.1, the denial of this claim by the committee is final, unless your written request for review by the Oregon State Bar Board of Governors is received by the Chief Executive Officer within 20 days of the date of this email (because this date lands on a weekend, your appeal is due March 4, 2019). If we receive an appeal from you, it will be presented to the Oregon State Bar Board of Governors April 2019 meeting for review.

>

> Requests for Board review must be sent to: Amber Hollister, General Counsel, Oregon State Bar, P.O. Box 231935 Tigard, OR 97281-1935. You are also welcome to email your appeal to this address.

>

> If no request for review is received from you within the allotted time, the committee's decision will be final and the file will be closed. Please do not hesitate to contact me should you wish any further information.

>

> Regards,

> Amber Hollister

>

> [OSB.gif]Amber Hollister

> General Counsel

> 503-431-6312

> ahollister@osbar.org<<mailto:ahollister@osbar.org>>

> pronouns: she/her

>

> Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 •

> www.osbar.org<<http://www.osbar.org>>

>

> Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

>

> From: James Robert <jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>>

> Sent: Friday, February 15, 2019 9:34 AM

> To: Amber Hollister <ahollister@osbar.org<<mailto:ahollister@osbar.org>>>; Jennifer Hisey

<jennifer.hisey@lasoregon.org<<mailto:jennifer.hisey@lasoregon.org>>>; Jerri Shay

<jshay@osbar.org<<mailto:jshay@osbar.org>>>

> Subject: Re: CSF LONG (Frackowiak) 2018 - 02- text demands from Frack

>

> Good morning:

>

> I filed a claim with your Client Security Fund (I believe that's what its called...) nearly one year ago. Since then my file has been passed around to multiple people, and I was given assurances early last summer that I'd have some resolution after a committee reviewed the claim. Those promises were reiterated again after I called in due to a lack of response.

>

> Could I please request that someone in management there review the emails that have been sent to me to possibly help shed some light on my frustrations? I've provided everything that's been requested of me. Sending emails like those that you see in this chain and not receiving a reply is frankly unacceptable.

>

> Please get back to me via email.

>

> Kind regards,

>

> James Frackowiak
> 503-451-1026
>
> On Mon, Jan 7, 2019 at 9:38 AM James Robert
<jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>> wrote:
> The lack of response from OSB is appalling.
>
> When will someone respond?
>
> On Tue, Sep 25, 2018 at 8:08 AM James Robert
<jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>> wrote:
> Hi Jennifer:
>
> Will I hear back from you on this matter soon?
>
> Thanks,
>
> James
>
> On Mon, Sep 10, 2018 at 7:40 AM James Robert
<jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>> wrote:
> Hi Jennifer:
>
> Will I hear back from you on this matter soon?
>
> Thanks,
>
> James
>
> On Tue, Jul 31, 2018 at 6:38 PM James Robert <jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>>
wrote:
> Ok... I was originally told this but was on May's docket, but then the person handling it changed or some such
thing... regardless, thanks for the update.
>
> On Tue, Jul 31, 2018 at 1:53 PM Jennifer Hisey
<jennifer.hisey@lasoregon.org<<mailto:jennifer.hisey@lasoregon.org>>> wrote:
> Unfortunately our July CSF meeting was cancelled. The next meeting is scheduled for mid-September. A
reimbursement decision will likely be made at that meeting.
>
> Jennifer Hisey
>
> From: James Robert <jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>>
> Sent: Tuesday, July 31, 2018 1:51 PM
> To: Jennifer Hisey <jennifer.hisey@lasoregon.org<<mailto:jennifer.hisey@lasoregon.org>>>
> Subject: Re: CSF LONG (Frackowiak) 2018 - 02- text demands from Frack
>
> Hi Jennifer:
>
> I left you a vm today. I'm curious if and when I'll be reimbursed.
>
> I found the original retainer agreement today.
>
> It's attached.
>
> Thanks,
>
> James Frackowiak

> 5034511026
> [cid:168f24ed397b11963102]
> [cid:168f24ed397155f77113]
>
> On Fri, Jun 22, 2018 at 9:58 AM James Robert <jrindustriesnw@gmail.com<<mailto:jrindustriesnw@gmail.com>>>
wrote:
> [cid:168f24ed39779a58b124]
> [cid:168f24ed397ddeb9f135]
> [cid:168f24ed3974231b3146]
>
>
> On Fri, Jun 15, 2018 at 12:03 PM Jennifer Hisey
<jennifer.hisey@lasoregon.org<<mailto:jennifer.hisey@lasoregon.org>>> wrote:
>
>
> Hello,
>
> I am the CSF investigator assigned to your claim against Attorney E. Andrew Long. I have received evidence of
your payments to Mr. Long totaling \$3100. However, before I can proceed to further process your claim I need the
following supporting documentation from you:
>
>
> 1. Your fee agreement or retainer agreement with Mr. Long;
>
> 2. Proof of payment of the additional \$300 you claim Mr. Long owes you;
>
> 3. Any accounting or billing statements you received from Mr. Long;
>
> 4. Copies of any attorney work product produced by Mr. Long (i.e. the letters he drafted for you);
>
> 5. Copies of any demands you made to Mr. Long to repay your loss.
>
> You may provide the copies of the requested documents wither electronically or by fax to 541-926-8919. Please
let me know if you have any questions.
>
> Jennifer Hisey
> CSF investigator
> 541-926-8678
>
> <image003.jpg>
> <image001.gif>
> <image006.jpg>
> <image005.jpg>
> <image002.jpg>
> <image004.jpg>

CLIENT SECURITY FUND

REPORT

From: Jennifer Hisey

Date: 01/09/2019

Re: Client Security Fund Claim No. 2018-02

Claimant: James Frackowiak

Attorney: E. Andrew Long

Recommendation

I recommend partial payment of this claim in the amount of \$1550.

Statement of the Claim

Mr. E. Andrew Long was admitted to the Oregon State Bar in 2003. He is currently suspended pending disciplinary action.

Mr. Frackowiak hired Mr. Long on July 26, 2017 for assistance with issues regarding a “Frackburger” location in Portland including a potential tort and a commercial landlord tenant issue. The retainer agreement listed Mr. Long’s rate as \$300 per hour. Mr. Frackowiak paid Mr. Long \$600 on September 9, 2017 and \$2500 on December 13, 2017. Mr. Frackowiak stated on June 22, 2018 that the correct amount he paid Mr. Long was \$3100 and not the \$3400 he claimed in his CSF application. According to Mr. Frackowiak, Mr. Long completed two letters during his representation and had some communication with the opposing party’s attorney. Mr. Frackowiak and Mr. Long appear to have had a casual relationship outside the attorney/client relationship. Mr. Frackowiak stated that he had made multiple demands for the return of his money in his CSF application which was dated January 9, 2018. Mr. Frackowiak provided texts between him and Mr. Long that indicated he was in contact with Mr. Long on cordial terms until at least June 2018. Mr. Frackowiak did demand the return of his money on April 22, 2018 and May 7, 2018 via text messages.

Mr. Long stated on November 30, 2018 that he did not know whether or not he owed Mr. Frackowiak any money and he did not know when he might be able to find his records. He did state that he believed Mr. Frackowiak paid him more than \$3100. Mr. Long did not respond with any additional information by the deadline of January 1 that I imposed.

Findings and Conclusions

1. Mr. Frackowiak and Mr. Long had an attorney client relationship. The representation involved a possible tort issue and a commercial landlord tenant issue concerning Mr. Frackowiak’s business “Frackburger.” Rule 2.1.5.
2. The CSF claim was filed within two years of the loss. Rule 2.1.8.
3. Mr. Frackowiak paid Mr. Long a total of \$3100. Mr. Long engaged in dishonest conduct by wrongfully taking Mr. Frackowiak’s money. Mr. Frackowiak should be partially reimbursed under rule 2.1.2(i).

4. Mr. Long did complete some work on behalf of Mr. Frackowiak. Mr. Long produced lengthy demand letters that would have required time to research and draft. Mr. Frackowiak even asked for legal advice from Mr. Long in his texts on April 30, 2018. However, Mr. Long did not do 100% of the work for which he was paid. Mr. Frackowiak should be reimbursed in the amount of \$1,550 under rule 2.2.
5. Mr. Frackowiak made repeated demands for the return of his money from Mr. Long. Mr. Frackowiak should be reimbursed under Rule 2.1.7.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: Appeal & Review of CSF Claim No. 2018-78 Deveny (Thompson)
Appeal & Review of CSF Claim No. 2019-7 Deveny (Thompson)

Action Requested

Review the Client Security Fund Committee recommendation that the board grant claimant Jerry Thompson's claim in the matter of CSF Claim No. 2018-78 Deveny (Thompson) and reimburse him for \$33,333.33, and that the board grant claimant Thompson's claim in the matter of CSF Claim No. 2019-7 Deveny (Thompson) and reimburse him for \$6,666.67.

Also consider claimant's appeal of the Committee's decision to deduct 33% of claimant's loss based on a contingent fee agreement. Claimant asserts that the deduction is inappropriate because the settlements were fraudulent and obtained without his knowledge, and he is unsure if he executed a written contingent fee agreement in both cases.

Discussion

In 2014, claimant Jerry Thompson hired Ms. Deveny to represent him in a personal injury case for injuries sustained in a motor vehicle accident on August 28, 2014. He stated in his Application that he agreed to pay Ms. Deveny 35% of any subsequent recovery, but he does not have a copy of a contingent fee agreement.

Ms. Deveny settled the case in 2016 without Mr. Thompson's knowledge. On July 14, 2016, Ms. Deveny submitted a signed release signed by Jerry Thompson, in which he agreed to settle his claim for \$10,000. The signature appears to be forged. Ms. Deveny endorsed the check as "trustee of Jerry Thompson" and converted the funds. She never told Mr. Thompson about the settlement.

In April 2017, Mr. Thompson hired Ms. Deveny to represent him in a second personal injury case for injuries sustained in a motor vehicle accident on March 31, 2017. Mr. Thompson stated in his Application that he agreed to pay Ms. Deveny 35% of any subsequent recovery, but he did not have a copy of the agreement. Thompson's counsel notes that no written fee agreement was discovered in Ms. Deveny's file, and states that claimant is unsure if an agreement was ever signed.

Ms. Deveny settled the second MVA case in February 2018. On February 23, 2018, a release was executed releasing Allstate from liability in return for a \$50,000 settlement. The signature appears to be forged. On February 26, 2018, Allstate sent a check for \$50,000 in settlement of Mr. Thompson's claim for injuries sustained on March 31, 2017. The check was

endorsed by Ms. Deveny “as trustee of Jerry Thompson.” She converted the funds and never told Mr. Thompson about the settlement.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending.

After a review of the facts presented, the Committee found that there was evidence of dishonesty in both cases, and that dishonesty caused Mr. Thompson a loss of his settlement funds. At its March 2018 meeting, the Committee reviewed Mr. Thompson’s claims and unanimously voted to recommend that the Board reimburse him in CSF Claim No. 2018-78 Deveny (Thompson) for \$33,333.33, and reimburse him for CSF Claim No. 2019-7 Deveny (Thompson) for \$6,666.67. In total, the Committee recommended that the board authorize reimbursement of \$40,000.

Mr. Thompson’s claims would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Thompson has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

Appeal

Claimant’s counsel Stephen Arnot has appealed the recommended amount awarded by the Committee. He submits that his client should receive the maximum CSF reimbursement of \$50,000, because the settlements made by Ms. Deveny were fraudulently obtained without his client’s knowledge or consent. Further, he asserts that his client is unsure of whether he ever signed a fee agreement in the second case.

During its March meeting, the Committee discussed this issue and determined that it did not have any evidence to suggest Mr. Thompson’s claims should have been settled for a greater amount. The Committee discussed the fact that because no written contingent fee agreement is available, the underlying fee agreement may be voidable under Oregon law, and given Ms. Deveny’s dishonest behavior she may not have been entitled to any amount in fees under a *quantum meruit* theory. Despite this, the Committee decided that under CSF Rule 2.2, the Fund may only reimburse claimants for legal fees if the legal services performed were minimal or insignificant. The Committee did not reach that conclusion in this instance. After consideration and discussion, the Committee determined that based on the information it had available, deducting the 1/3 contingent fee would likely place Mr. Thompson in the same position he would have otherwise been without Ms. Deveny’s fraudulent taking of his settlement funds.

Staff recommends that the board approve the claim, consistent with the CSF Committee’s recommendation that the claimant receive a reimbursement of \$40,000 for both claims.

March 20, 2019

97055.0101

VIA EMAIL ONLY ahollister@osbar.org

Amber Hollister
Oregon State Bar
16037 SW Upper Boones Ferry Road
PO Box 231935
Tigard, OR 97281

Re: Jerry Thompson
Client Security Fund Claim No. 2019-07, 2018-78
Lawyer: Lori Deveny

Dear Ms. Hollister:

Thank you for your letters dated March 19, 2019 regarding the Client Security Fund Committee's approval of Jerry Thompson's claim for reimbursement.

I wrote to Jerri Shay on March 1, 2019 requesting an opinion regarding the Security Fund's right to setoff the contingency fee before payment to Mr. Thompson. I enclose a copy of my email to Jerri Shay dated March 1, 2019. After you've had a chance to review the attachment, I would appreciate the Bar's position in regards to settlements where the contingency fee was not agreed to, although the attorney was retained.

Thank you in advance for your cooperation.

Very truly yours,



Stephen P. Arnot
(503) 546-1421
sarnot@williamskastner.com

SPA:nlc
Enclosure
cc: Jerry Thompson (w/enc.)

Arnot, Stephen

From: Arnot, Stephen
Sent: Friday, March 01, 2019 2:51 PM
To: 'jshay@osbar.org'
Subject: Jerry Thompson - Application for Reimbursement from Client Security Fund

Dear Ms. Shay:

Thank you for your email of February 15, 2019 regarding the above matter. As you may recall, Ms Deveny settled two personal injury claims without my client's knowledge or consent. She signed all of the releases and the joint party checks from the insurance companies.

The first application for reimbursement was for a settlement made by Ms. Deveny for \$10,000. Although we can't locate a fee agreement, my client informs me that it was a one-third recovery for the attorney, the balance to the client. I understand that the contingency fee is deducted from any reimbursement by the fund. The question I have relates to the second suit Ms Deveny settled for \$50,000, of which a claim was submitted as well. Although Ms Deveny was Mr. Thompson attorney in the second action, Mr. Thompson never signed a fee agreement to his knowledge and we can't locate one in the file. Based on the lack of the fee agreement, how do you determine the reduction, if any, before you reimburse the client from the security fund. In other words, will you assume a one-third reduction for the contingency fee before distribution to my client or should the reduction be the reasonable value of services at the time Ms. Deveny made the settlement?

Please let me know and I will review the matter with my client before the submission of an amended application for reimbursement from the fund. Thank you.

Stephen P. Arnot

Williams Kastner Greene & Markley | Attorney at Law
1515 SW Fifth Avenue, Suite 600
Portland, OR 97201-5449
P: 503-546-1421 | F: 503-222-7261
www.williamskastner.com | [Bio](#) | [V-Card](#)

WASHINGTON OREGON ALASKA

**Client Security Fund
Investigative Report**

Re: 2018-78
Claimant: Jerry Thompson
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended approval of the claim in the amount of \$33,333.33.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Thompson for a personal injury claim in 2016. Allstate insurance company settled the injury claim for \$50,000. Deveny failed to pay any amount to the claimant, and did not respond to numerous phone calls. Under Deveny's fee agreement, he should have received two-thirds of the settlement amount, or \$33,333.33.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in October 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship. *See* CSF Rule 2.1.5(ii) for alternative.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

**Client Security Fund
Investigative Report**

Re: 2019-7
Claimant: Jerry Thompson
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended approval of the claim in the amount of \$6,666.67.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Thompson for a personal injury claim in 2016. Traveler's insurance company settled the injury claim for \$10,000. Deveny failed to pay any amount to the claimant, and did not respond to numerous phone calls. Under her fee agreement, he should have received two-thirds of the amount, or \$6,666.67.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in October 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship. *See* CSF Rule 2.1.5(ii) for alternative.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-61 Fachner (Shepherd)

Action Requested

Reconsider payee entitled to \$15,110.27 payment in CSF Claim No. 2018-61. In February 2019, the board granted the above-referenced claim and directed that payment be made to the Estate of Joshua Lee Shepherd. Claimant now requests the claim be paid directly to Karen Shepherd based on a Court's Order.

Discussion

After the board approved this claim, Launa Helton, counsel for Ms. Shepherd, requested that payment be made directly to Karen Shepherd, rather than to the Estate. Ms. Shepherd is the sole beneficiary of the Estate.

After the CSF claim was filed, the probate was administered and the matter closed. The General Judgment in the probate matter, dated December 4, 2018, specifically provides that "If the Client Security Fund reimburses per the filed claim, any amount shall be payable directly to Karen A. Shepherd."

Staff recommends that the board direct that the claim be paid to Karen Shepherd, individually, pursuant to the Court's Order in this matter.

From: [Amber Hollister](#)
To: [Launa Helton](#)
Cc: [Jerri Shay](#)
Subject: RE: Client Security Fund Claim Karen Shepherd
Date: Wednesday, March 06, 2019 1:26:03 PM
Attachments: [image001.gif](#)

Great. We will do that and I will update you after the BOG meeting on April 12.

Amber Hollister

General Counsel
503-431-6312
ahollister@osbar.org
pronouns: she/her

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

From: Launa Helton <launa@helton-law.com>
Sent: Wednesday, March 06, 2019 1:06 PM
To: Amber Hollister <ahollister@osbar.org>
Cc: Jerri Shay <jshay@osbar.org>
Subject: Re: Client Security Fund Claim Karen Shepherd

Amber,

Yes please proceed with putting it on the agenda to get BOG's approval. Hopefully it won't be an issue.

Thank you so much. We will hold tight until April 12.

Launa Lawrence Helton
Attorney at Law
503-303-0057
12909 SW 68th Parkway, Suite 160
Portland, OR 97223

From: Amber Hollister <ahollister@osbar.org>
Date: Wednesday, March 6, 2019 at 12:36 PM
To: Launa Lawrence Helton <launa@helton-law.com>
Cc: Jerri Shay <jshay@osbar.org>
Subject: RE: Client Security Fund Claim Karen Shepherd

Launa,

I see the issue, and agree it should go to your client personally under the terms of the order. Unfortunately, as CSF Administrator I do not have the authority to make this change without the BOG's approval. They only approved payment to the estate.

Our next BOG meeting is April 12. I can certainly put it on the agenda for that meeting. Please let me know if you want to talk further or if I should proceed with that course of action.

Best,
Amber

Amber Hollister
General Counsel
503-431-6312
ahollister@osbar.org
pronouns: she/her

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

From: Launa Helton <launa@helton-law.com>
Sent: Wednesday, March 06, 2019 9:34 AM
To: Amber Hollister <ahollister@osbar.org>
Subject: Client Security Fund Claim Karen Shepherd

Amber,

Thank you for your call/message last night. I understand you are in meetings all day today.

I've attached the conformed General Judgment in the probate case. Karen Shepherd is the sole beneficiary of the Estate. All creditors and taxes of her son have been paid in full.

We did not know if Karen would be reimbursed through the security fund and we knew it would take some time for resolution. So we decided to close the probate. I drafted the General Judgment to allow the security fund to pay the funds directly to Karen Shepherd (if they were going to reimburse her) as an individual and not in her capacity as the personal representative.

Can the documents to claim the funds be redrafted to let her claim the reimbursement as an individual?

Thank you for your help on this.

Launa Lawrence Helton
Attorney at Law
503-303-0057
12909 SW 68th Parkway, Suite 160
Portland, OR 97223

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

Probate Department

In the Matter of the Estate of:
JOSHUA LEE SHEPHERD,
Deceased.
Case No. 17PB00399
)
)
GENERAL JUDGMENT
APPROVING VERIFIED STATEMENT
AND AUTHORIZING
FINAL DISTRIBUTION
)
)
)
)

Karen A. Shepherd, the Personal Representative filed the Verified Statement and Petition for General Judgment of Final Distribution on October 24, 2018.

The Court makes the following Finding of Fact:

1

All Oregon and federal income, inheritance, and personal property taxes have been or will be filed and paid.

2

All creditors have been paid in full.

3

The Personal Representative requested authorization to establish a reserve in the sum of \$225 for attorney fees for completion of the distribution of the estate's assets.

4

The personal representative seeks approval and payment of the following remaining unsatisfied expenses of administration as follows:

1. Reasonable compensation for attorney fees payable to Launa Lawrence Helton in the amount of \$3,306.49.

5

Biological father did not file an appearance in this proceeding and there is no notice requirement.

6

The remainder of the estate assets shall vest with Karen A. Shepherd.

1 **IT IS HEREBY ADJUDGED AS FOLLOWS:**

2 7.

3 The Verified Statement is approved.

4 8.

5 Remaining expenses of administration, including funeral expenses and reasonable
6 attorney fees are approved and authorized to be paid as follows:

7 1. Reasonable compensation for attorney fees payable to Launa Lawrence Helton in the
8 amount of \$3,306.49. Further, an additional \$225 to be held in reserve to finish
9 administering and closing the estate.

10 9.

11 The Personal Representative is directed to make distribution of the remaining estate
12 property to the persons and in the amounts set forth in Paragraph 6 above, and the property is
13 hereby vested in those persons in the amounts set forth as follows:

- 14 1. 100% of the Estate to Karen A. Shepherd.
15 2. If the Client Security Fund reimburses per the filed claim, any amount shall be
16 payable directly to Karen A. Shepherd.

17 ///

18 ///

19 ///

10.

Upon filing herein receipts showing payment and distribution as herein directed, the
personal representative shall be discharged by Supplemental Judgment.

The Personal Representative is authorized to close this estate without further notice or
accounting.

Signed: 12/4/2018 03:22 PM



Circuit Court Judge Tracy A. Prall

Submitted by:
PERSONAL REPRESENTATIVE:
Karen A. Shepherd
17662 S. Callahan Rd.
Mollala, OR 97038
503-829-7078

ATTORNEY FOR PERSONAL REPRESENTATIVE:
Helton Law Office, LLC
Launa Lawrence Helton, OSB#040692
12909 SW 68th Parkway, Suite 160
Portland, OR 97223
503-303-0057
503-719-8993 (fax)
launa@helton-law.com

Page 4 of 4 – General Judgment
In the Matter of the Estate of SHEPHERD

Helton Law Office, LLC
Launa L. Helton OSB #040692
12909 SW 68th Parkway, Suite 160
Portland, OR 97223
Telephone: (503) 303-0057
Fax: (503) 719-8993
launa@helton-law.com

UTCR 5.100 CERTIFICATE OF READINESS FOR JUDICIAL SIGNATURE

THIS PROPOSED ORDER OR JUDGMENT IS READY FOR JUDICIAL SIGNATURE BECAUSE:

1. [] Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
2. [] Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
3. [] I have served a copy of this order or judgment on all parties entitled to service and provided written notice of the (3 or 7) day objection period set out in subsection 1(a) or (c) of this rule and:
 - a. [] No objection has been served on me.
 - b. [] I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved
 - c. [] After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
- 4 [] The relief sought is against an opposing party who has been found in default.
5. [] An order of default is being requested with this proposed judgment.
6. ~~[]~~ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
7. [] This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.

DATED: This 24 day of October, 2018.



LAUNA LAWRENCE HELTON, OSBAR # 040692
Attorney for Personal Representative

CLIENT SECURITY FUND INVESTIGATIVE REPORT

Re: Claim No. 2018-61
Claimant: Karen A. Shepherd
Attorney: Ronalee M. Fachner
Investigator: Lucille Sage
Date: January 2, 2019



RECOMMENDATION

I recommend paying the entire amount (\$15,110.27) that claimant is requesting. That was the actual amount of money claimant paid to the attorney, Ms. Fachner. Fachner provided no beneficial – but instead, only *harmful* – legal services when she initiated a probate proceeding unnecessarily. (A simple Small Estate affidavit proceeding would have expeditiously and inexpensively resolved claimant's problem). Fachner also charged the claimant at least 5 times the amount that it reasonably could have taken to complete the probate; she then *failed* to complete it, lied to the claimant about the work that she was doing, and billed/collected payments from the client without first obtaining the requisite court approval.

The Probate Court ordered Ms. Fachner to return the entire \$15,110.27. However, in the six months that have since elapsed, she has failed to respond to that order.

INVESTIGATION SUMMARY

I reviewed records submitted with the claimant's application and those submitted in the Bar disciplinary proceeding, spoke & corresponded with claimant's second attorney, and spoke & corresponded with OSB Assistant Disciplinary Counsel Susan Cournoyer about this case. Ms. Fachner did not respond to my efforts to discuss this matter with her.

Attorney Ronalee Fachner became a member of the Oregon State Bar in 2008. She has been suspended since May 2018,¹ and the Bar has initiated formal disciplinary proceedings against her for her conduct toward the claimant in this case (Karen Shepherd). In addition to other violations, the Bar has found evidence of fraudulent billing records.² Ms. Fachner has failed to respond to any Bar requests for information. The Bar has tried, but cannot find her.

¹ According to the Bar, Fachner has twice been suspended for failure to pay her PLF dues, most recently in May 2018. She has not been reinstated since that time, nor requested reinstatement.

² Assistant Disciplinary Counsel Susan Cournoyer states, "Given the absence of communication with her client and the meager work reflected in the court record, it appears that Fachner performed few of the services for which she billed her client. The Bar has therefore also charged her with collecting illegal and excessive fees (RPC 1.5(a))."

The other violations with which Fachner is being charged are "failure to provide competent representation (RPC 1.1), neglect (RPC 1.3), failure to communicate (RPC 1.4(a)), and failure to return client file upon termination (RPC 1.16(d))."

Background facts:

In October 2016, claimant Shepherd hired attorney Fachner to administer her son's small (approx. \$65,000) estate. There was no written fee agreement. Ms. Fachner billed \$150/hour.

Between October 2016 and October 2017, Fachner commenced a Small Estate Affidavit but then, for an unknown reason, she converted it to a full probate. She billed and accepted payment from Shepherd for a total of **\$15,110.27** in attorney fees³ without first obtaining court approval, in violation of the Oregon Rules of Professional Conduct.⁴

Attorney Fachner stopped communicating with her client and did not complete the probate process.

In April 2018, claimant Shepherd hired a second attorney, Launa Lawrence Helton, who explained to Shepherd that in Oregon, any fee to probate an estate "must be approved by the court before you are authorized to pay or reimburse it from the estate. *** I will send you periodic statements so that you will be aware of the fees, costs and expenses being incurred. The monthly statement for a formal probate procedure is only to keep you informed of the work we are doing and the status of our charges. You will not pay for my services until the billing statement is approved by the probate court."⁵ Ms. Helton predicted that, billing at \$225 per hour, the total cost for handling all aspects of the probate process in Ms. Shepherd's case would be **\$1,000-\$3,000**.

Ms. Helton has filed a Bar complaint against Fachner and also submitted a detailed letter in support of claimant's CSF application. *See Exhibit A.*

Valuing the loss itself:

This is the one aspect of this case that requires a judgment call on the part of the CSF Committee: Do we reduce the claim by 1-3 hours' worth of work done by attorney Fachner (\$150-\$450), or do we not reduce it at all because Fachner should not have done that work in the first place?

Claimant's second attorney (Launa Helton) states that it appears Ms. Fachner had never practiced Probate law before, did not know what she was doing, and then outrageously over-billed for the work that she did. **She initiated the wrong proceeding** (a full-blown Probate, which is required for estates valued at \$200,000, whereas the current estate had a value of only \$65,000 and involved no real property). Fachner also **filed the wrong documents, filed them out of order, failed to file necessary documents, and missed deadlines.**

³ See Exhibit C (evidencing payments of \$1413, \$1620, \$2000, and \$10,077.27, totaling \$15,110.27); \$15,110.27 is also the amount that the probate court ordered Ms. Fachner to repay claimant.

⁴ *In re Alstatt*, 321 Or 324, 333 (1995) ("[I]t is impermissible to collect attorney fees from an estate in probate without prior court approval. Any such attorney fee that is collected without approval is unlawful and, hence, an "illegal" fee. Therefore, the accused's receipt of the attorney fees without court approval in this case was the collection of an illegal fee and was unethical conduct.").

⁵ Exhibit B, Letter from Helton to Shepherd, with Retainer Agreement, dated April 11, 2018.

Work done: Ms. Fachner filed a Petition to initiate the probate proceeding, an Inventory which was not necessary, and a Notice that a share of the estate was being forfeited. Ms. Helton states that at most, each of those documents would have taken one hour to complete. Fachner charged \$150/hour, so the *maximum* she earned before abandoning her client would have been \$450 but that presumes that she initiated the correct proceeding.

What should have happened: Because of the size of the decedent's estate, it could have been administered by simply utilizing a Small Estate Affidavit form, which is available free, online, and has a \$111 filing fee. Ms. Helton states that she declines to represent individuals with estates that small, because non-attorneys can complete and file the paperwork themselves so easily and cheaply. She represented Ms. Shepherd in the probate proceeding only because it had already been initiated and an attorney was required, to finish it.

My recommendation is that we reimburse the claimant for the full amount of her loss, with no offset for the minimal amount of work done by Fachner, because none of it was necessary and, because it caused claimant to incur unnecessary delay and expense, Fachner's work was actually harmful to her client. Although we cannot compensate for it, the claimant also had to pay a second attorney to clean up the situation that Fachner had created.

CSF Rule 2.2 provides that reimbursement of a legal fee is allowed when no legal services were provided, or in this Committee's judgment only minimal/insignificant work was done, or the claim for reimbursement is supported by "evidence acceptable to the Committee that establishes that the client is owed a refund of a legal fee." Here, the probate court itself determined that claimant is owed a refund of the entire legal fee that she paid. In sum, although only one of the three factors articulated in Rule 2.2 need be present, in this case we have two.

Efforts to collect loss:

1. A demand for repayment was made on claimant Shepherd's behalf by her second attorney, through the Show Cause motion that she filed in probate court. Fachner refused to hand over her case file and provided no response to the legal claims made against her.

2. A default order was obtained in probate court. It orders Fachner to return the entire \$15,110.27. Fachner has not paid any portion of that, and has been unreachable. Her whereabouts are unknown.

3. Claimant Shepherd contacted the Bar, and "tried to make a claim on Fachner's PLF coverage, but [the PLF] denied the claim as not covered."⁶

4. Claimant Shepherd contacted the Bar Client Assistance Office, and apparently was directed to the CSF Committee.

Efforts to locate attorney Fachner:

I attempted to contact Ms. Fachner via email and telephone.⁷ She did not respond. The Bar provided me with her home (which was also her office) address in Salem. She no longer

⁶ Application for CSF Reimbursement, ¶5(b).

⁷ Over the past two months, I have sent 3 emails to Ms. Fachner's email address, and 1 email through her website Contact form, but have received no response as of 1/2/19.

Before it expired on December 8, 2018, I checked Ms. Fachner's website (www.fachlaw.com) and noticed that it failed to indicate that she was no longer in practice. It showed the following contact info: Email: rmfachner@hotmail.com; Ph. 503 602-1004. That is also the telephone number listed in the OSB Membership Karen A. Shepherd / Ronalee M. Fachner – CSF Claim No. 2018-61

lives there. The landlord recently obtained an eviction order which required Ms. Fachner and her husband to vacate by November 26, 2018. Disciplinary Counsel staff contacted Fachner's former landlord for a forwarding address, but was informed that she did not leave one.

The Bar has repeatedly tried to reach Ms. Fachner, to no avail. Assistant Disciplinary counsel Susan Cournoyer advises that it "would likely be redundant/pointless to require the claimant to sue the attorney individually, as the Marion County circuit court has already ordered Fachner to return \$15,110 (and the estate legal files), but Fachner has not complied with the order."

FINDINGS AND CONCLUSIONS

1. Claimant Karen Shepherd was injured by attorney Ronalee Fachner. CSF Rule 2.1.1.
2. The loss was caused by the attorney's dishonest conduct, which involved both failing to obtain court approval for the payments and fraudulently billing & collecting fees for work not done. CSF Rule 2.1.2. Additional grounds to conclude that Ms. Fachner was dishonest in her financial dealings with claimant are set forth in Exhibit A, which is the Helton Law Office letter to the CSF Committee, dated September 19, 2018.⁸
3. The claimant's loss is not covered by a fund similar to the Client Security Fund in another state or jurisdiction, nor by any enforceable bond, agreement or contract. CSF Rule 2.1.3.
4. The loss was not incurred by a financial institution covered by a bond, insurance or surety contract. CSF Rule 2.1.4.
5. The loss arose from, and was because of, either "an established attorney-client relationship." CSF Rule 2.1.5.
6. As a result of attorney Fachner's dishonest conduct, a court order was entered against her, which remains unsatisfied. Although an order is not a "judgment," which is technically required by CSF Rule 2.1.6(ii), I recommend that that specific requirement be waived by this committee per Rule 2.6 because claimant's second attorney (Helton) states that it will cost a minimum of \$1,000 more for her client to hire a third attorney to draft and file a Judgment (because Helton's practice is limited and does not include that type of work), and every attorney that her client consulted for that purpose told her it would not be worth her time – "Throwing good money after bad" – because records searches indicate that Fachner has no assets whatsoever.

Directory. However, I called it and learned that – if the person answering the phone was to be believed -- the number belongs to a Spanish-speaking person who has never heard of Ronalee M. Fachner and is not an attorney.

⁸ I am uncertain whether failure to comply with a court order requiring the attorney to repay the client (claimant) would also be considered a dishonest act, so I do not include that as a finding.

7. A good faith effort has been made by the claimant to collect the amount, to no avail. CSF Rule **2.1.7**.

8. The claim is timely. Claimant filed his claim within two years of the Order of Default, which was signed by Judge Channing on 6/20/18 and required Ms. Fachner to immediately return to claimant the amount of \$15,110.27. CSF Rule **2.1.8**.

9. The loss arose from the lawyer's practice of law in Oregon. CSF Rule **2.1.9**.

10. Claimant's loss was the entire \$15,110.27 that she paid to the attorney from her personal funds and in part from the estate's funds, with no offset because no helpful or appropriate work was done by Fachner, for the decedent's estate. Only minimal/insignificant (and harmful) work was done by Fachner and the claim is supported by a determination of the court. CSF Rule **2.2** (ii) and (iii).

11. The claimed loss does not include the additional fees that claimant has paid to her second attorney. CSF Rule **2.4**.

12. The claim does not exceed the amount of \$50,000. CSF Rule **4.7**.

CONCLUSION

For the reasons set forth above, it would be just and appropriate to grant the claimant's request for \$15,110.27 to be reimbursed by the Client Security Fund.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-52 Walters (Pursel)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Bonita Pursel's claim of \$20,070.64 in the matter of CSF Claim No. 2018-52 Walters (Pursel).

Discussion

Bonita pursel retained Erin Walters to represent her as personal representative in her husband's probate estate. The estate was receiving payments related to her husband's mesothelioma. Without court approval, or the client's consent, Walters paid herself not less than \$20,070.64, which has not been recovered.

The CSF investigator concluded that Ms. Walters converted \$20,070 of Pursel estate funds for purposes unrelated to the estate. Ms. Walters failed to place funds in trust that belonged to her client or third parties and her trust account was overdrawn. Further, while ORS 116.183 requires court approval before an attorney for a personal representative may collect fees from an estate, Ms. Walters did not obtain nor attempt to obtain, a court order approving any disbursement for fees in the Pursel estate.

Ms. Walters argues that the funds she took were for services actually rendered.

Ms. Walters has been indicted for Misapplication of Entrusted Property and Theft I. The criminal case is pending in Yamhill County (Case No. 19CR14327); trial is scheduled for June 26, 2019. Mrs. Pursel filed a bar complaint against Ms. Walters, which was approved by the SPRB for prosecution and is currently stayed pending the outcome of her criminal case. A BR 3.1 petition for interlocutory suspension was filed by the Bar and Ms. Walters stipulated to entry of an order suspending her bar license effective May 18, 2019.

Although a criminal conviction has not yet been obtained as required by CSF Rule 2.1.6, the Committee voted to apply the Rule 2.6 hardship exemption given the circumstances of the case.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: [2018-52]
Claimant: Bonita Pursel
Lawyer: Erin C. Walters
Investigator: Daniel Steinberg

RECOMMENDATION

I recommended that the Client Security Fund approve the claim in the amount of \$20,070.64.*

CLAIM INVESTIGATION SUMMARY

Claimant was the personal representative in her husband's probate estate in Yamhill County, Case No. PR110074. The estate was receiving payments from a class action related to Lyle Pursel's mesothelioma. Without court approval, or the client's consent, Walters paid herself not less than \$20,070.64 which has not been recovered.

In total, the New York law firm handling the mesothelioma claim sent Walters \$442,211.21 between July 2011 and March 2016. Walters received and retained the following amounts with the client's approval:

1. January 2, 2013 - \$677 for filing fee;
2. January 31, 2014 - \$1,067 for an amended filing fee;
3. April 16, 2015 - \$4,099 consisting of a \$799 filing fee and a \$3,500 retainer; and
4. March 16, 2016 - \$5,0000 in trust for attorney's fees.

In June 2016, Walters received a check related to the mesothelioma claim in the amount of \$31,228 and only remitted \$28,000 of that settlement payment to the estate. In August 2016 Walters used estate funds to purchase a cashier's check in the amount of \$3,000 for Thomas Walters, her husband.

In total Walters converted approximately \$20,070 of Pursel estate funds for purposes unrelated to the estate. This is demonstrated on the accounting attached as Exhibit 1. The final check of \$3,228.64 for "fees" dated 9/8/2016 was never received by Ms. Pursel. In addition, the final amount of \$16,842 that should have remained in trust, was not there and the trust account was overdrawn.

ORS 116.183 requires court approval before an attorney for a personal representative may collect fees from an estate. Walters did not obtain, nor attempt to obtain, a court order approving any disbursement for fees in the Pursel estate.

Walters admits converting \$16,842 of the funds for the Pursel account but argues that it was compensation for services actually rendered. A copy of her accounting is attached as Exhibit 1.

In July 2018 Erin Walters was indicted on seven counts related to the conversion.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See CSF Rule 2.1.8.*

Ms. Pursel became suspicious in April 2016 and filed her claim in March 2018.

2. Claimant is the injured client. *See CSF Rules 1.4 and 2.1.1.*

Ms. Pursel is the personal representative and the sole beneficiary of the estate and thus is the party who suffered the loss.

3. The loss was caused by the lawyer's dishonest conduct. *See CSF Rule 2.1.2.*

Ms. Walters' conversion of the funds without obtaining client consent and/or court order was knowingly dishonest.

4. The loss is not covered by any similar fund in another state. *See CSF Rule 2.1.3.*

5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See CSF Rule 2.1.4.*

6. The loss did arise from, and was because of, an established lawyer-client relationship and as a result of funds paid to the attorney as a fiduciary insofar as she was representing the personal representative. *See CSF Rule 2.1.5.*

7. CSF Rule 2.1.6 has not been satisfied as Ms. Walters has been indicted but the criminal trial has been continued and is currently scheduled for September 2019.

8. Claimant hired an attorney and made a good-faith effort to collect the amount claimed by making demand on Ms. Walters. However, because of the pending criminal complaint and disciplinary proceedings, Ms. Walters has declined to settle the matter. Ms. Pursel is in seriously ill health, is currently hospitalized, and is unable to assist in filing a suit against Ms. Walters. *See CSF Rule 2.1.7.*

9. The loss did arise from the lawyer's practice of law in Oregon. *See CSF Rule 2.1.9.*

10. While Ms. Walters did provide some services, CSF Rule 2.2 is satisfied because Walters did not use the money withheld for the purposes she indicated they were to be withheld. While she did pay herself out of the retainer, the additional funds withheld for filing fees and others were not used to pay filing fees. Additionally, as indicated in the probate docket attached hereto as Exhibit 2, the probate was dismissed because Walters failed to respond to multiple notices of delinquency.

11. The Claimant did not receive equivalent legal services from another attorney. *See* CSF Rule 2.3.

Although Ms. Pursel has not exhausted all remedies and terms of filing a lawsuit, given her physical condition and deteriorating health, I believe that, if necessary, the case of extreme hardship could be made under section 2.6 of the Client Security Fund Rules.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019

From: Amber Hollister, General Counsel

Re: CSF Claim No. 2018-57 Goodwin (Hilliker)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Welsey Hilliker's claim of \$18,189.58 in the matter of CSF Claim No. 2018-57 Goodwin (Hilliker).

Discussion

Wesley and Linda Hilliker engaged Jeffrey Goodwin to assist them with a dispute over a mobile home warranty they purchased in 2016. The fee agreement provided that Mr. Goodwin would charge them on an hourly basis. The Hillikers paid Mr. Goodwin \$18,189.58 to file a breach of contract claim.

The investigator found that during the entire representation, Mr. Goodwin sent monthly bills and repeatedly requested that the Hillikers pay invoices and replenish his trust account. His time records indicated he spent significant time drafting additional letters and complaints. Even so, the only work product he produced was a single letter that proposed a settlement. No additional letters were sent and no complaint was filed. Based on these facts, the investigator determined that the loss of legal fees was caused by Mr. Goodwin's dishonest conduct.

On August 1, 2018, Mr. Goodwin transferred to inactive status without completing his representation of the Hillikers. On August 30, 2018, Mr. Goodwin was transferred to involuntarily inactive status, pursuant to BR 3.2, pending the outcome of numerous disciplinary matters.

Although Mr. Hilliker's original claim was for \$5,000, the Committee found that he paid Goodwin \$18,189.58, but the legal services actually provided were, in the Committee's judgment, minimal or insignificant under Rule 2.2.

While the Hillikers have filed a claim with the PLF seeking damages for malpractice based on the expiration of the statute of limitations on their breach of warranty claim, the PLF has indicated it will not reimburse the Hillikers for their lost legal fees.

Given the fact that disciplinary charges are pending and Mr. Goodwin is likely without any assets, the Committee voted to apply Rule 2.6's hardship exemption to waive application of CSF Rule 2.1.6, which requires the claimant obtain a civil or criminal judgment.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-57
Claimant: Wesley and Linda Hilliker
Lawyer: Jeffrey Goodwin
Investigator: Daniel Steinberg

RECOMMENDATION

I recommended approval of the claim in the amount of \$18,189.58.

CLAIM INVESTIGATION SUMMARY

Attorney Jeff Goodwin ran a law firm in Corvallis, Oregon, until August 2018. He voluntarily went to inactive pending disciplinary proceedings. The disciplinary proceedings against Goodwin are currently suspended as his inactive status is based in part on disability reasons.

Wesley and Linda Hilliker engaged Jeffrey Goodwin to assist them with a dispute over a warranty for a mobile home they had purchased in 2016. Based on the contract claim which, the warranty expired in June of 2018, would need to have been commenced by that time. Between October 2017 and July 2018, the Hillikers purportedly paid \$18,189 to Jeffrey Goodwin. After reviewing the records, the Hillikers provided evidence of payment of \$13,389.58.

After undertaking the representation, Jeffrey Goodwin sent monthly bills and repeatedly requested that the Hillikers pay invoices and replenish the trust account. The written fee agreement indicated that Goodwin would be charging on an hourly basis. Of the \$18,189 paid to Jeffrey Goodwin, the only work product which was verified was a single letter proposing a settlement. Although there were numerous entries regarding drafting additional letters and complaints, no additional letters were sent and no complaint was filed.

Ultimately at the end of July 2018, Jeffrey Goodwin, facing numerous ethical complaints, transferred to inactive status. After charging the Hillikers more than \$18,000, the time to file their claim expired and the Hillikers were, according to them, unable to pursue their warranty claim.

The Hillikers have filed a claim with the PLF seeking reimbursement of damages as a result of the lapsed time to pursue the warranty claim. I have confirmed with the PLF that their damages there, did not overlap with the amount being sought from the Client Security fund.

Attached are the retainer agreement (Exhibit 1), proof of payment (Exhibit 2), invoices (Exhibit 3), and Goodwin's account ledger showing payments of \$17,856.41.

The Hillikers were originally seeking only reimbursement for \$5,000, the amount left in the trust account shortly before Goodwin sent the final bill where he used up the remaining \$5,000 July of 2018, shortly before transferring to inactive status. However, after reviewing the information provided by the Hillikers, I believe that they paid the \$18,189 identified in the additional claim as

being paid to Goodwin even they were only seeking compensation for the final \$5,000 he charged them. Reviewing the work billed by Goodwin, it does not appear that they received any meaningful services for the money that they paid them and reimbursement of the full \$18,189 would be appropriate.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See CSF Rule 2.1.8.*

The Hillikers first engaged Mr. Goodwin in October 2017 and thus, the CSF claims was made within the time set forth in the rules.

2. Claimants are the injured clients. *See CSF Rules 1.4 and 2.1.1.*

3. The loss was caused by the lawyer's dishonest conduct. *See CSF Rule 2.1.2.*

Here, although the accused was purportedly providing services, in reality the \$18,189 charged to the Hillikers did not result in any meaningful work product and appears to have been a sham designed to justify repeated payments by the Hillikers.

4. The loss is not covered by any similar fund in another state. *See CSF Rule 2.1.3.*

5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See CSF Rule 2.1.4.*

6. The loss did arise from, and was because of, an established lawyer-client relationship. *See CSF Rule 2.1.5.*

7. CSF Rule 2.1.6 has not satisfied in this case.

8. Claimants made a good-faith effort to collect the amount claimed. *See CSF Rule 2.1.7.*

Claimants made demand on Mr. Goodwin who cannot, at this time, be found.

9. The loss did arise from the lawyer's practice of law in Oregon. *See CSF Rule 2.1.9.*

10. Pursuant to CSF Rule 2.2(ii), services provided by the accused were minimal and of no real value.

11. The Claimants did not receive equivalent legal services by another attorney as the contractual time period had expired to pursue their claim.

12. Mr. Goodwin currently has several outstanding Client Security Fund claims against him. Additionally, the Client Assistance Office has been contacted by approximately 30 past clients of Mr. Goodwin regarding his conduct and cessation of practice. Given the nature and volume of the claims against him, requiring the Hillikers, and similarly situated claimants to pursue judgments

against Mr. Goodwin, assuming they could find him, seems an unnecessary step. Accordingly, pursuant to CSF Rule 2.6, ordinary circumstances exist which justify payment to the Hillikers for their claim without compliance with Rule 2.2.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-66 Deveny (Elmore)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Curtis Elmore's claim of \$17,405.53 in the matter of CSF Claim No. 2018-66 Deveny (Elmore).

Discussion

Curtis Elmore hired Lori Deveny in June 2017 to recover damages for injuries sustained in an August 2016 auto accident. He agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. He never received a copy of the written fee agreement from Ms. Deveny.

Ms. Deveny contacted the insurance company Country Financial to negotiate settlement and obtained a \$20,000 settlement offer. Ms. Deveny communicated the offer to Mr. Elmore and told him the settlement would also include payment of \$4,073.53 in outstanding medical bills. The Committee determined that Ms. Deveny used the promise of payment of the medical bills to induce Mr. Elmore to accept the settlement offer, even though she did not plan to pay him his portion of settlement proceeds or settle the outstanding medical debts.

Mr. Elmore signed a settlement agreement on June 10; at the time, Ms. Deveny indicated that she would reach out to him when she received the funds from Country. She never did so.

Records show that Ms. Deveny received a settlement check on June 4, 2018 and deposited it on June 11, 2018. She never paid any settlement funds to Mr. Elmore. After June 14, 2018, Ms. Deveny refused to return claimants phone calls, texts or other communications.

The investigator determined that the legal services provided by Ms. Deveny were *de minimis*, and that she did not seek to obtain payment of the outstanding medical bills, even though she told Mr. Elmore she would do so.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. Mr. Elmore reports he is working with the Portland Police Department regarding Ms. Deveny's alleged theft.

At its March 2018 meeting, the Client Security Fund Committee reviewed Mr. Elmore's claim and unanimously voted to recommend that the Board reimburse him for \$17,405.53 of his loss. Mr. Elmore's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Elmore has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

The Committee calculated the amount of the loss as the 2/3 of the settlement for \$20,000 (\$13,332), plus \$4,073.53 for the outstanding medical bills that Mr. Elmore was told would be paid as part of the settlement, for a total of \$17,415.53.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-66
Claimant: Curtis Elmore
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended approval of the claim in the amount of \$17,415.53.*

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Elmore for an auto accident that occurred in 2016. The insurance company settled the claim for \$20,000, not including for medical expenses, which Deveny was supposed to negotiate or deal with separately, it appears. Deveny settled the claim while suspended in 2018, and failed to pay any amount to the claimant; she did not respond to numerous phone calls. Under the fee agreement, Mr. Elmore should have received \$13,332* of that settlement. In addition, he has medical bills that total \$4073.53 that Deveny should have negotiated from the insurer.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in July, 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.

9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

10. Legal work appears to have been *de minimis*. If she had done more (she was suspended from the practice of law at the time), perhaps the medical bills would have been paid.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-67 Deveny (Aleric Kelly)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Aleric S. Kelly's claim of \$7,332.60 in the matter of CSF Claim No. 2018-67 Deveny (Aleric Kelly).

Discussion

Aleric Kelly hired Ms. Deveny on January 25, 2016 to represent him in his personal injury claim. He agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. He never received a copy of the written fee agreement from Ms. Deveny.

Ms. Deveny settled the claim in August 2017 for \$11,000, without Mr. Kelly's knowledge. Mr. Kelly notes that Ms. Deveny forged his signature on a release dated July 17, 2017, and again forged his signature on a settlement check. She deposited the check into her trust account on August 8, 2017, and apparently converted the funds (they are no longer in her trust account). Ms. Deveny never informed Mr. Kelly of the settlement.

On May 22, 2018, despite the fact that the case was settled nearly a year prior, Ms. Deveny corresponded with Mr. Kelly and sought his consent to a settlement for \$11,000, in addition to payment of a PIP lien of \$4,382.88 (which would be paid directly to Geico). Mr. Kelly signed the release. It was identical to the release that Ms. Deveny forged in July 2017. Despite signing the release, he never received any settlement funds.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. Mr. Kelly reports he is working with the Portland Police Department regarding Ms. Deveny's alleged theft.

At its March 2018 meeting, the Client Security Fund Committee reviewed Mr. Kelly's claim and unanimously voted to recommend that the Board reimburse him for \$7,332.60 of his loss. The Committee calculated the loss as 2/3 of the \$11,000 settlement, per the terms of Mr. Kelly's fee agreement with Ms. Deveny.

Mr. Kelly's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Kelly has not obtained a civil judgment against her. The Committee, however, voted to waive the

requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-67
Claimant: Aleric Kelly
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended payment of the claim in the amount of \$7,332.60.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Kelly for a personal injury claim in January 2016. The claim was fraudulently settled for \$11,000, in 2017. Deveny was communicating with claimant in May 2018, as though the claim hadn't settled yet. Mr. Kelly did not receive any amount from the settlement. Under the lawyer's fee agreement, the claimant should have received approximately \$7,332.60.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in August 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-68 Deveny (Laurie Kelly)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Laurie Kelly's claim of \$13,333.33 in the matter of CSF Claim No. 2018-68 Deveny (Laurie Kelly).

Discussion

Ms. Kelly retained Ms. Deveny on January 25, 2016 to represent her in a personal injury claim. She agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. She never received a copy of the written fee agreement from Ms. Deveny.

In July 2017, Ms. Deveny settled the claim without Ms. Kelly's knowledge or consent. Ms. Kelly asserts that Ms. Deveny forged her signature on a release dated July 17, 2017 and on a settlement check. In May 2018, Ms. Deveny had Ms. Kelly again sign an identical release.

Ms. Deveny deposited the settlement check but never distributed any funds to Ms. Kelly. The funds are no longer in Ms. Deveny's trust account.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending.

At its March 2018 meeting, the Client Security Fund Committee reviewed Ms. Kelly's claim and unanimously voted to recommend that the Board reimburse her for \$13,333.33 of her loss (2/3 of \$20,000). Ms. Kelly's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Ms. Kelly has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon her circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-68
Claimant: Laurie Kelly
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended payment of the claim in the amount of \$13,332.

CLAIM INVESTIGATION SUMMARY

Deveny represented Ms. Kelly for a personal injury claim in January 2016. The claim was fraudulently settled for \$20,000, unknown to Ms. Kelly, in 2017. Deveny was communicating with claimant in May 2018, as though the claim hadn't settled yet. Ms. Kelly did not receive any amount from the settlement. Under the lawyer's fee agreement, the claimant should have received \$13,332.00.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in August 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-80 Deveny (Hunter)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Aubrey Hunter's claim of \$50,000 in the matter of CSF Claim No. 2018-80 Deveny (Hunter).

Discussion

Aubrey Hunter hired Ms. Deveny on September 16, 2007 to represent him to recover damages for serious injuries sustained in a motor vehicle accident. The accident was major, and the other driver died. The Oregon State Police determined Mr. Hunter was not at fault.

In May 2009, Ms. Deveny settled the case for \$500,000 and Mr. Hunter executed a release. Later that month, Ms. Deveny received a check from Country Financial for \$500,000 in insurance proceeds. She told Mr. Hunter she had received the funds and was going to start negotiations with medical providers for settlement of outstanding medical bills.

After the settlement, she paid Mr. Hunter a total of \$10,000. For the next nine years, Ms. Deveny made various excuses to Mr. Hunter for why he did not receive any additional settlement funds. Eventually, Ms. Deveny claimed that Mr. Hunter's settlement funds were tied up in a bankruptcy action. She told Mr. Hunter that she expected a decision from the bankruptcy judge by August 2018, and he should be paid by the end of the year. No bankruptcy action, however, was ever at issue.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. Mr. Hunter learned of Ms. Deveny's resignation from an Oregonian article published in the summer of 2018 and filed his claim. There are no funds remaining in Ms. Deveny's trust account.

At its March 2018 meeting, the Client Security Fund Committee reviewed Mr. Hunter's claim and unanimously voted to recommend that the Board reimburse him for \$50,000 of his loss. Mr. Hunter's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Hunter has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-80
Claimant: Aubrey Hunter
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended payment of the claim in the amount of \$50,000.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Hunter for a personal injury claim in 2009. The claim was settled for \$500,000. Out of that settlement, the claimant was supposed to pay medical bills. Deveny made multiple excuses over the intervening years that the settlement was tied up in bankruptcy court. Claimant had known Deveny for over 20 years, so he had no reason to disbelieve her. Other than \$10,000, claimant has not seen any of his settlement.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in June, 2018.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-82 Deveny (Papadopoulos)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Konstantinos Papadopoulos' claim of \$50,000 in the matter of CSF Claim No. 2018-82 Deveny (Papadopoulos).

Discussion

Claimant Konstantinos Papadopoulos retained Ms. Deveny on March 3, 2014 to represent him to recover damages for injuries sustained in a motor vehicle accident that occurred on January 31, 2014. Mr. Papadopoulos sustained injuries that required surgery and additional treatment.

In December 2015, Ms. Deveny reached a settlement with Employers Mutual Casualty Company for \$90,000. On December 23, 2014, she received a settlement check and deposited it in her trust account. Although she had agreed to settle Mr. Papadopoulos's outstanding PIP subrogation claim (she received an offer to settle for \$15,000), it does not appear she did so.

Mr. Papadopoulos asserts that Ms. Deveny reached the settlement without his knowledge or consent. He submits that she settled his case just after he finished surgery and before the extent of his medical expenses were fully known. Claimant never received any part of the settlement, and Ms. Deveny's trust account does not contain the funds.

At its March 2018 meeting, the Client Security Fund Committee reviewed Mr. Papadopoulos's claim and unanimously voted to recommend that the Board reimburse him for \$50,000 of his loss. Mr. Papadopoulos's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Papadopoulos has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-82
Claimant: Konstantino Papadopoulos
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended approval of the claim in the amount of \$50,000.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Papadopoulos for an auto accident that occurred in 2014. The insurance company settled the injury claim for \$90,000. Deveny failed to pay any amount to the claimant, and did not respond to numerous phone calls. Under her fee agreement, he should have received \$60,000 of that settlement.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered when the Oregonian published its article about Ms. Deveny.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship. *See* CSF Rule 2.1.5(ii) for alternative.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2019-70 Deveny (Minard)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Rosemary Minard's claim of \$5,666.67 in the matter of CSF Claim No. 2018-83 Deveny (Minard).

Discussion

Claimant Minard hired Ms. Deveny on October 14, 2013 to represent her in obtaining damages for injuries sustained in a motor vehicle accident in a Costco parking lot. She agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. She never received a copy of the written fee agreement from Ms. Deveny.

In January 2015, Ms. Deveny settled the case for \$8,500, plus payment of outstanding medical bills. Ms. Minard was aware of a \$5,000 payment from American Family Insurance Group; she later learned that Ms. Deveny also settled a claim with Safeco Insurance for an additional \$3,500, without Ms. Minard's knowledge or consent.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. In 2018, Ms. Minard was under the impression her case was still pending until the Portland Police Department contacted her about Ms. Deveny's alleged theft. Some of Ms. Minard's medical bills have been paid, but some remain outstanding; Ms. Minard did not receive any of her settlement proceeds from Ms. Deveny.

At its March 2018 meeting, the Client Security Fund Committee reviewed Ms. Minard's claim and unanimously voted to recommend that the Board reimburse her for \$5,666.67 of her loss (2/3 of \$8,500). Ms. Minard's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Ms. Minard has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon her circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

**Client Security Fund
Investigative Report**

Re: 2018-83
Claimant: Rosemary Minard
Lawyer: Lori Deveny
Investigator: Stephanie A. Thompson

RECOMMENDATION

I recommended payment of the claim in the amount of \$5,666.10.

CLAIM INVESTIGATION SUMMARY

Deveny represented Mr. Kelly for a personal injury claim in August 2013. The claim was fraudulently settled for \$8,500. Ms. Minard did not receive any amount from the settlement. Under the lawyer's fee agreement, the claimant should have received approximately \$5,666.10.

FINDINGS AND CONCLUSIONS

1. The claim is timely. *See* CSF Rule 2.1.8. The loss was discovered in 2018, when claimant's husband was contacted by Detective Sitton of the Portland Police Department.
2. Claimant is the injured client. *See* CSF Rules 1.4 and 2.1.1.
3. The loss was caused by the lawyer's dishonest conduct. *See* CSF Rule 2.1.2.
4. The loss is not covered by any similar fund in another state. *See* CSF Rule 2.1.3.
5. The loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. *See* CSF Rule 2.1.4.
6. The loss did arise from, and occurred because of, an established lawyer-client relationship.
7. In this case, the lawyer has many pending CSF claims, is being investigated for fraud, and has resigned rather than face discipline.
8. Claimant has made a good-faith effort to collect the amount claimed. Ms. Deveny has exhausted all remaining assets.
9. The loss arose from the lawyer's practice of law in Oregon. *See* CSF Rule 2.1.9.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-84 Deveny (Burk)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Kimberlee Jo Burk's claim of \$20,000 in the matter of CSF Claim No. 2018-84 Deveny (Burk).

Discussion

On March 31, 2016, Ms. Burk retained Ms. Deveny to represent her on three separate MVA claims that occurred in 2014, 2015 and 2016. She agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement.

Ms. Deveny settled all three cases as follows:

1. MVA on 12/10/14 – settled for \$15,000 prior to 5/19/17
2. MVA on 3/27/15 – settled with Allstate for \$25,000 on 11/8/18
3. MVA on 2/19/16 – settled with State Farm for \$5,000 on 8/10/17

Ms. Burke received \$12,000 in settlement for the first MVA, but she did not receive any settlement amount for the 2015 and 2016 MVAs. Accordingly, the investigator calculated her loss as \$20,000 (2/3 of \$30,000).

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. A day later, on July 27, 2018, Ms. Deveny asked Ms. Burk to come to her office to sign a release in the 2015 MVA. She did so and never received any of the settlement funds.

Ms. Burk reports she is working with the Portland Police Department regarding Ms. Deveny's alleged theft.

At its March 2018 meeting, the Client Security Fund Committee reviewed Ms. Burk's claim and unanimously voted to recommend that the Board reimburse her for \$20,000 of her loss. Ms. Burk's claim would not ordinarily be eligible for reimbursement at this time, pursuant to CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Ms. Burk has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon her circumstances and the available evidence.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

CLIENT SECURITY FUND INVESTIGATIVE REPORT

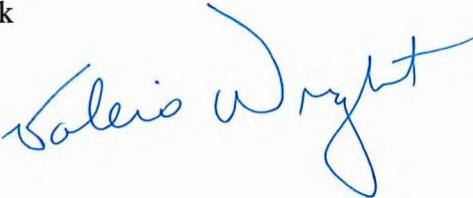
Report Submitted February 22, 2019

CLAIM: # 2018-84

CLAIMANT: Kimberlee Jo Burk

LAWYER: Lori Deveny

INVESTIGATOR: Valerie Wright



RECOMMENDATION

I recommend approval of the claim but only in the amount of \$20,000.

CLAIM INVESTIGATION AND SUMMARY

Background Facts

On March 31, 2016 Ms. Burk (claimant) hired Ms. Deveny (attorney) to represent her on three (3) car accident claims:

1. accident date 12/10/14 – settled for \$15K before 5/19/17 (Burk received \$12K on 5/3/18)
2. accident date 3/27/15 – settled for \$25 K on 11/8/18 – Burk received nothing
3. accident date 2/19/16 –settled for \$5K on 8/10/17 – Burk received nothing

The Retainer Agreement describes the financial arrangement as a “contingent fee” with attorney Deveny receiving 1/3rd of any amount collected in the event of settlement before the first day of trial. The fee agreement does not specify that the client is to pay any costs or expenses.

Ms. Burk provided documentation regarding settlement of accident #2 in the form of an email from an Allstate claims rep who wrote:

Allstate issued the check for the settlement, in the amount of \$25,000 to Law Office of Lori Deveny and yourself on June 20, 2018. This check was mailed to our insured's defense attorney's office to be combined with the release. The check was cashed on July 27, 2018.

Ms. Burk also provided documentation regarding settlement of accident #3 in the form of a letter from State Farm to Deveny on August 10, 2017 in which State Farm wrote:

Enclosed is our payment for \$5,000 which represents the amount of our initial offer. The remaining coverage available will be reduced by the amount of this payment....Please contact us to discuss how you wish to proceed with your client's claim.

Investigator's Work

On January 23, 2019 I received a phone message from Kevin Brague notifying me that he was representing the claimant and would appreciate a call back from me. I attempted to reach him via phone to no avail.

On January 24, 2019 I received an email message from the claimant "checking on the status" of her CSF claim. I reached out to Mr. Brague again as I needed permission to speak with the represented claimant. He and I spoke and he sent me permission in writing.

Claimant and I had a lengthy phone conversation on January 24th, 2019. Claimant confirmed that she had received a check for \$12,000 in May of 2018 and that she did not sign off on any release or check which Deveny received a year earlier.

Claimant recalled having signed a release in conjunction with the settlement of accident #2 when she visited Deveny's office during July of 2018. I asked her if she could provide a copy of the release. She let me know that Mr. Brague had her file and she instructed him to send it to me. It is attached as Exhibit 1. It is noteworthy that Allstate confirmed that the check was cashed on July 27th, 2018, the very date on which Ms. Burk signed the release at Deveny's office. Deveny apparently immediately cashed the check and lied to Ms. Burk regarding the status of the settlement funds.

Furthermore, Deveny had signed her Form B resignation in May of 2018. Her resignation was ordered on July 26, 2018. Claimant was at Deveny's office on July 27, 2018 signing the release. Deveny never notified Claimant of the change in her ability to practice law.

Claimant also sent me some of the email communication that she sent to Deveny during the months following signature of the release. (Attached as Exhibit 2.) Below is a snippet:

September 19, 2018 has State Farm agreed to let me settle Accident #2 for the \$25k without having to factor in the PIP reimbursement?....Are you making any headway with State Farm on Accident #3?...

October 3, 2018 I'm working on the 'squeaky wheel' hypothesis. Trying again to get answers to my questions from 9/19/18 below...

October 9, 2018 what is happening....?

October 19, 2018 I would appreciate a response as silence doesn't tell me anything.

Deveny responded to none of Claimant's above emails. However, when forwarding some of the many emails she sent to Deveny to this investigator, Claimant accidentally forwarded one to Deveny. (On January 24, 2019) Deveny replied "she didn't get it" ostensibly referring to the fact that the message was addressed to the investigator but sent to Deveny. Claimant wrote back that this seemed to indicate that Deveny "hasn't been arrested yet. LOL!"

I have attached as Exhibit 3 some additional random emails between the two, showing Burk's repeated references to the delays in getting settlement monies and the attorney's reference to the claimant getting "a gold star in not calling them (the insurance company) back."

Claimant presents as a delightful person whose sense of humor has sustained her throughout this ordeal. She was appreciative to hear my apology on behalf of the CSF committee and all members in good standing of the OSB, however, she'd like her money, please.

Claimant's attorney Brague wrote to investigator on January 26, 2019 "Please advise if the PLF will enter into a tolling agreement for Ms. Burk's claims against Ms. Deveny." I did advise him (thanks to direction I received from Amber Hollister) that he should make that inquiry of PLF not us. On January 28, 2019 I wrote to Mr. Brague requesting a copy of the fee agreement or contract between Brague and Claimant. I have attached that as well. (Exhibit 4)

Claimant had referenced in her initial application with the CSF that she had filed a police report against Deveny. The investigating officer was on vacation until Feb 4, 2019, thereby delaying Claimant's ability to provide a copy of that report to this investigator. I sent a reminder email to Ms. Burk on February 22nd and have not yet heard back. While it would be ideal to have a copy of that report, it is not necessary in order for Investigator to conclude her analysis.

FINDINGS AND CONCLUSIONS

1. The claim is timely – having been filed with the Bar within two years of the date the claimant knew or should have known, in the exercise of due diligence, of the loss. 2.8
2. Claimant is the injured client. 2.1
3. The loss was caused by the lawyer's dishonest conduct. 2.2
4. The loss is not covered by any similar fund in another state. 2.3
5. The loss was not to a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. 2.1.4
6. The loss did arise from and was because of the failure to account for money or property entrusted to the lawyer in connection with the lawyer's practice of law or while acting as a fiduciary in a matter related to the lawyer's practice of law. (Accident #2 - \$25,000 and Accident #3 - \$5,000) 2.5.2

7. The loss also arose from the lawyer's dishonesty and the lawyer has resigned from the Bar. 2.6.3
8. A good faith effort has been made by the claimant to collect the amount claimed, to no avail. 2.7
9. The loss did arise from the lawyer's practice of law in Oregon. 2.1.9
10. The Claimant did not receive equivalent legal services by another attorney without cost to the Claimant. 2.3

I recommend payment to Claimant of \$20,000. Deveny appears to have received \$30,000 on Claimant's behalf (accidents #2 and #3) and to have kept the money. The retainer agreement between Claimant and Deveny contemplated that attorney was to keep 1/3 and Claimant was to receive 2/3.

POST SCRIPT

The above small snippets of information suggest a number of possible areas of concern that go beyond the work of this committee but which do merit further investigation:

- Did Deveny communicate with her client regarding whether to accept or reject the settlement amounts and, if not, should this failure be brought to the attention of the SPRB? – (yes as to accidents #1 and #2. No as to accident #3.)
- Did Deveny sign the client's name on the check in the amount of \$25,000 thereby committing forgery? (Claimant believes she signed a release but did not sign any of the original checks.)
- Assuming that Claimant was not notified of the possibility of receiving additional money from State Farm regarding accident #3 did Deveny fail to adequately represent Claimant by not continuing to pursue the claim regarding accident #3? (Ms. Burk now has Kevin Brague representing her additional interests.)

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2019-03 Carver (Fazio)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Robert Fazio's claim of \$7,000 in the matter of CSF Claim No. 2019-03 Carver (Fazio).

Discussion

In August 2018, Claimant Robert Fazio entered into a flat-fee, earned upon receipt, fee agreement with Mr. Caver to represent him in a pending Washington County criminal matter. Mr. Carver did not deposit the funds in his trust account, pursuant to RPC 1.15-1(c).

In November 2018, Mr. Carver died by apparent suicide. Mr. Fazio has hired new counsel to represent him and his new counsel did not rely on any work performed by Mr. Carver. The investigator found that the legal services he provided to Mr. Fazio were minimal or insignificant, pursuant to CSF Rule 2.2.

The attorney representing the personal representative in Mr. Carver's estate has indicated his estate is insolvent. Accordingly, the Committee determined that efforts to collect the legal fee from Mr. Carver's estate would be futile.

The Committee discussed whether it could determine Mr. Carver engaged in dishonesty, pursuant to CSF Rule 2.1.2, given the nature of Mr. Carver's death and was unable to come to a determination. Instead, given the extraordinary circumstances of this case the Committee voted to exercise its discretion pursuant to CSF Rule 2.6 to waive the requirements of establishing specific evidence of dishonest intent and the requirement that the claimant obtain an approved, unsatisfied probate claim.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

Client Security Fund Investigative Report

Re: 2019-003
Claimant: Robert Fazio
Lawyer: LeMarr Carver
Investigator: Steve Bergmann

RECOMMENDATION

I recommend approval of the claim in the amount of \$7,000.

CLAIM INVESTIGATION SUMMARY

In August of 2018, the claimant, Robert Fazio, entered into an agreement with an attorney, LeMarr Carver, to provide pretrial legal counsel in connection with Washington County Case No. 18CR57178.

Robert Fazio paid LeMarr Carver \$7,000 upfront and signed a “flat fee agreement for legal representation”. The agreement does state that the fees are non-refundable and earned upon receipt.

LeMarr Carver provided the following services to Robert Fazio:

Date	Estimate of Time	Description of Service	Individuals Present
8/27/2018	1 hour	Mr. Fazio paid Mr. Carter \$6k; signed agreement (\$7k for pretrial legal services); explained case to Mr. Carter	Mr. Fazio; Mr. Carver
9/15/2018	1 hour	Mr. Fazio paid Mr. Carter \$1k;	Mr. Fazio; Mr. Carver
9/24/2018	1 hour	Trial Scheduling Appearance at Court	Mr. Fazio; Mr. Carver
10/22/2018	1 hour	Trial Scheduling Appearance at Court	Mr. Fazio; Mr. Carver

LeMarr Carver was found deceased in early November of 2018.

Oregon State Bar has confirmed there are no funds within LeMarr Carver’s trust account.

FINDINGS AND CONCLUSIONS

1. The claim is timely. (CSF Rule 2.1.8)
2. The claimant is the injured client. (CSF Rules 1.4 and 2.1.1)
3. The loss was caused by the lawyer’s dishonest conduct. (CSF Rule 2.1.2)
4. The loss is not covered by any similar fund in another state. (CSF Rule 2.1.3)

5. The loss was not incurred by a financial institution covered by a “banker’s blanket bond” or similar insurance or surety contract. (CSF Rule 2.1.4)
6. The loss did arise from, and was because of, an established lawyer-client relationship.
7. CSF Rule 2.1.6 has not been satisfied.

Rule 2.1.6 states that as a result of the dishonest conduct, either:

- i. the lawyer was found guilty of a crime;
- ii. a civil judgment was entered against the lawyer, which remains unsatisfied
- iii. the claimant holds an allowed claim against the lawyer’s probate or bankruptcy estate, which remains unsatisfied; or
- iv. in the case of a claimed loss of \$5,000 or less, the lawyer was disbarred, suspended, or reprimanded in disciplinary proceedings, or the lawyer resigned from the Bar.

8. Claimant has made a good-faith effort to collect the amount claimed. (CSF Rule 2.1.7)
9. The loss did arise from the lawyer’s practice of law in Oregon. (CSF Rule 2.1.9)
10. CSF Rule 2.2 is satisfied. The legal services that the lawyer provided appear to be insignificant.
11. The Claimant did not receive equivalent legal services by another attorney without cost to the Claimant. (CSF Rule 2.3)

Although the claim should be denied because the criteria listed in CSF Rule 2.1.6 has not been met, approval of the claim in the amount of \$7,000 is appropriate because special and unusual circumstances exist. Special and unusual circumstances are summarized below:

- Mr. Carver was found deceased in November of 2018.
- Mr. Carver’s estate was assigned a bond value of \$20,000 in Multnomah County (18PB09271).
- Total existing claims exceed the bond value assigned to the estate.
- Based on interviews performed as part of the investigation, it is believed the claimant would need significant legal assistance to pursue a claim against Mr. Carver’s estate.

Based on the circumstances described above, I recommend approval of the claim in the amount of \$7,000.

Compliance Summary Attachment
 Prepared by: Steve Bergmann

Rule Section	Claim Meets Criteria? (Yes/No/N/A)	Comments
2.1	N/A	
2.1.1	Yes	
	N/A	
	N/A	
2.1.2	N/A	
	Yes	confirmed with Oregon State Bar
	N/A	
2.1.3	Yes	confirmed with claimant
2.1.4	Yes	confirmed with claimant
2.1.5	Yes	
2.1.6	No	Criteria I, ii, iii, and iv has not been met. Given the circumstances of the case (lawyer is deceased), the Investigator recommends applicability of this rule is limited.
2.1.7	Yes	Per claimant, the claimant called all phone numbers he could find for Mr. Carver and was unable to establish contact.
2.1.8	Yes	
2.1.9	Yes	
2.2	Yes	The legal services provided by Mr. Carver were clearly insignificant. Mr. Carver accepted payment from the claimant and attended two trial set over appearances.
2.3	N/A	
2.4	N/A	
2.5	N/A	
2.6	Yes	See comment at rule 2.1.6

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2019-08 Deveny (Shorten)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Barbara Shorten's claim of \$50,000 in the matter of CSF Claim No. 2019-08 Deveny (Shorten).

Discussion

Through her counsel, Stanley Gish, Claimant Barbara Shorten reports that she retained Ms. Deveny in September 2015 to represent her to recover damages for injuries sustained in a car accident on August 20, 2015. As a result of the accident, Ms. Shorten permanently lost the use of her legs and is now paraplegic.

Ms. Shorten recalls she agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. She never received a copy of the written fee agreement from Ms. Deveny.

On or about October 12, 2015, without Ms. Shorten's knowledge or consent, Deveny settled claimant's claim against MetLife and accepted a \$100,000 settlement check from Met Life in 2015. She deposited the check in her IOLTA trust account on or about October 27, 2015. Deveny did not disburse any of the \$100,000 check to Ms. Shorten or to OHSU, the other payee and lienholder listed on the check.

On or about January 21, 2016, Ms. Deveny settled an outstanding wage loss PIP claim for \$15,000 and applied the payment to Ms. Shorten's medical bills at OHSU. The PIP payment is not the subject of this claim.

Sometime in July 2018, after she had resigned from the bar, Ms. Deveny told Ms. Shorten that she received a settlement of some kind, but did not share the amount with Ms. Shorten. Ms. Shorten believed that Ms. Deveny would place any settlement proceeds in an income cap trust, with Deveny as trustee for Medicaid qualification purposes, but Ms. Deveny never did so.

The funds are no longer in Ms. Deveny's trust account and are alleged to have been stolen by Ms. Deveny. Through counsel, Ms. Deveny declined to participate in the CSF investigation and asserted her Fifth Amendment right against self-incrimination.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending.

At its March 2018 meeting, the Client Security Fund Committee reviewed Ms. Shorten's claim and unanimously voted to recommend that the Board reimburse her for \$50,000 of her loss. Ms. Shorten's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Ms. Shorten has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon her circumstances and the available evidence.

Mr. Gish seeks recovery of his attorney fees in this matter for an unknown amount from the CSF reimbursement. His hourly rate is \$240, and he has agreed to cap his fees at 20% of any funds recovered with a minimum \$1000 fee. Pursuant to Rule 2.5, the Committee considered the reasonableness of Mr. Gish's fee arrangement with Mr. Shorten and found that it was reasonable in theory, but the Committee was unable to determine whether the actual amount of the fee charged was reasonable because it had insufficient information. After the meeting, staff asked Mr. Gish for more information about his fee. He responded and stated he had spent 20.1 hours on the Shorten CSF matter, and his total fee, based on the agreed rate of \$240 per hour, is \$4,824.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.

Client Security Fund Investigative Report

Re: CSF Claim No. 2019-8
Claimant: Barbara Jean Shorten
Lawyer: Lori Deveny
Investigator: Melissa May
Date: March 11, 2019

RECOMMENDATION

I recommended approval of Ms. Shorten's claim in the maximum allowable amount of \$50,000. The Claimant's loss related to this claim was \$100,000.

CLAIM INVESTIGATION SUMMARY

Lori Deveny was admitted to the Oregon State Bar in 1989. She was suspended on April 30, 2018, and her Form B resignation was accepted on July 26, 2018. Deveny is under investigation by federal and state law enforcement agencies.

Description of the Claim

Through her counsel, Stanley Gish, Barbara Jean Shorten alleges the following:

- Ms. Shorten was injured in a car accident on August 20, 2015. As a result of the accident, she permanently lost the use of her legs and now is paraplegic.
- Ms. Shorten retained Lori Deveny in September 2015. (No written fee agreement has been found; Ms. Shorten recalls agreeing to pay Deveny one-third of any amount recovered).
- Without Ms. Shorten's knowledge or consent, Deveny accepted a \$100,000 settlement check from MetLife in 2015.
- Deveny deposited that check in her IOLTA account.
- Deveny did not disburse any of the proceeds to Ms. Shorten or to OHSU (the other payee on the \$100,000 check).
- At the time of the application, Deveny had not returned Gish's messages regarding the subject matter of the Application for Reimbursement.¹

¹ Deveny has asserted her privilege against self-incrimination in this matter.

Investigation

I reviewed Ms. Shorten's Application for Reimbursement and attachments (including a copy of the \$100,000 check at issue), Ms. Shorten's OHSU patient billing ledger, and copies of text messages and emails between Ms. Shorten and Deveny. I also spoke with Ms. Shorten, her attorney (Stanley Gish), Deveny's attorney (Wayne Mackeson), OHSU billing department personnel, and Detective Brian Sitton of the Portland Police Bureau.

Work Performed by Deveny

We do not have access to Deveny's file(s) for Ms. Shorten.² Based on the information available, it appears that Deveny did the following.

1. Sought \$15,000 in wage loss benefits under Mr. Shorten's Personal Injury Protection ("PIP") coverage.³
2. Filed suit against the driver allegedly at fault and the owner of the other car (Multnomah Co. Case No. 17CV35905). That suit was dismissed "for want of prosecution" on January 4, 2018.⁴
3. Established an "income cap trust" (with Deveny as trustee) for Medicaid qualification purposes.⁵
4. Pursued a claim against MetLife (DBA Economy Preferred Insurance Company) for Uninsured Motorists ("UIM") Coverage. The \$100,000 Deveny received in settlement of the UIM claim is the subject of Ms. Shorten's Application for Reimbursement.

\$100,000 Settlement Check & Release

The "Paid Items Print" attached as Exhibit A shows a \$100,000 check issued by MetLife Auto & Home to "OHSI AND LORI DEVENY IN TRUST OF BARBARA SHORTEN." The check was dated October 12, 2015. Deveny endorsed the check by signing her name and adding "in trust for Barbara Shorten." A printed endorsement, purportedly by Oregon Health & Sciences University, also appears on the back of the check.⁶

² On 3/7/2019, Deveny reported via her attorney that "Ms. Shorten's file was sent to her new lawyer." As of 3/8/2019 date, Ms. Shorten's lawyer had not received the file

³ The \$15,000 PIP proceeds were applied to Ms. Shorten's medical bills at OHSU; this matter is not the subject of this claim.

⁴ This matter is not the subject of this claim.

⁵ This matter is not the subject of this claim. Ms. Shorten's attorney is attempting to remove Deveny as trustee of the income cap trust and to gain access to that account.

⁶ According to Detective Sitton, the OHSU billing department does not have a record of endorsing the check, and cannot find a record of the number referenced in the endorsement. They also indicated that it is not their usual practice to endorse a check and return it to a third party, such as Deveny, for deposit.

The “Receipt and Release under Uninsured Motorists Coverage” attached as Exhibit B is dated September 21, 2015. It was signed by “witnesses” but was not signed by Ms. Shorten.

According to Detective Sitton, Deveny deposited the \$100,000 check in her IOLTA account. Exhibit A shows that the funds were paid on October 27, 2015.

Ms. Shorten did not receive any funds from that settlement. A review of the OHSU patient billing ledger for Ms. Shorten shows that no funds from any individuals (including Lori Deveny) were applied to Ms. Shorten’s bills. The \$15,000 PIP funds were applied to Ms. Shorten’s medical bills on January 21, 2016. The only other payments shown on the ledger were payments by medical insurance companies (Providence Health and Medicare).⁷

Detective Sitton indicated that the balance in Deveny’s IOLTA account is minimal. Thus, it appears that Deveny converted \$100,000 of Ms. Shorten’s funds.

Efforts to Collect

Stanley Gish attempted to contact Deveny to discuss this matter but did not receive a response. Public records indicate that, although Deveny owns a home in Portland, there are foreclosure actions and multiple civil suits pending against Deveny.

Timeline Summary:

8/20/2015	Auto Accident
Sept. 2015	Shorten retained Deveny
10/12/2015	MetLife issued \$100,000 check for UIM coverage
10/27/2015	\$100,000 deposited/funds paid to Deveny’s IOLTA account
2017-2018	Various text messages between Deveny and Shorten (mostly re: income cap trust transactions)
4/30/2018	Oregon Supreme Court suspended Deveny’s license to practice law
5/27/2018	Deveny signed Form B resignation
c. July 2018	Deveny told Shorten that she received a settlement (unclear whether she was referring to the UIM settlement or settlement of the matter described in Multnomah Co. case no. 17CV35905)
7/26/2018	Oregon Supreme Court accepted Deveny’s Form B resignation
10/25/2018	Deveny’s last known communication with Shorten (via text message)
Dec. 2018	Detective Sitton informed Shorten of the \$100,000 check deposit (and lack of corresponding disbursement)
2/12/2019	Shorten filed CSF Application for Reimbursement

⁷ The ledger shows a \$0 balance. Ms. Shorten indicated that the phone calls from collection agencies have tapered off over the last few months; it is unclear whether there are additional medical debts or collection matters at this time.

FINDINGS AND CONCLUSIONS

1. Claimant Barbara Jean Shorten is the injured client, and her loss was caused by Lori Deveny's dishonest conduct. CSF Rules 1.4, 2.1.1, and 2.1.2.
2. Claimant's loss is not covered by any similar fund in another state. CSF Rule 2.1.3.
3. Claimant's loss was not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract. CSF Rule 2.1.4.
4. The loss arose from, and was because of, an established lawyer-client relationship. CSF Rule 2.1.5.
5. Deveny has not been found guilty of a crime at this time, nor has Ms. Shorten obtained a civil judgment against Deveny. I recommend that the committee waive CSF Rule 2.1.6, however, as discussed below.
6. Claimant has made a good-faith effort to collect the amount claimed. CSF Rule 2.1.7.
7. Claimant's Application for Reimbursement was timely (filed within two years of the date she learned of the loss). CSF Rule 2.1.8.
8. Claimant's loss arose from the lawyer's practice of law in Oregon. CSF Rule 2.1.9.
9. CSF Rules 2.2 – 2.4 do not apply. Claimant is not seeking reimbursement of a legal fee paid, has not received equivalent legal services by another attorney without cost to the Claimant, and is not seeking attorney's fees or other items listed in CSF Rule 2.4.
10. Claimant retained attorney Stanley Gish to assist with this claim. A copy of their fee agreement was submitted with the Application for Reimbursement and is attached as Exhibit C. Gish's rate is \$240/hour, subject to a cap of 20% of any funds recovered. The fee agreement appears reasonable, and I recommend that the CSF committee approve the payment of the fee from the award. CSF Rule 2.5.
11. Although the committee could deny the claim because CSF Rule 2.1.6 has not been satisfied at this time, approval of the claim in the amount of \$50,000 is appropriate because Ms. Shorten has suffered extreme hardship, and the circumstances are special and unusual. CSF Rule 2.6. I recommend that the committee waive CSF Rule 2.1.6. Based on the volume and value of claims against this lawyer, it seems unlikely that she will be able to satisfy any civil judgment in Ms. Shorten's favor. It likely would be a waste of resources for Ms. Shorten to pursue a civil claim at this time.

OREGON STATE BAR

Board of Governors

Meeting Date: March 8, 2019
From: Helen M. Hierschbiel
Re: Proposed Revisions to Strategic Functions and Goals

Action Recommended

Waive the one meeting notice requirement and revise the OSB Bylaws to reflect the new Strategic Functions and Goals as set forth below.

Background

On February 22, 2019, the OSB Board of Governors (BOG) adopted the following new strategic functions and goals:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

The BOG should now amend OSB Bylaw 1.2 as follows to reflect the new functions:

Section 1.2 Purposes

The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services and by increasing access to justice.

The Bar fulfills that mission through the following functions:

(A) We ~~are a regulatory body, protecting the public by ensuring the competence and integrity of lawyers regulate the legal profession and improve the quality of legal services.~~

(B) We ~~are a partner with the judicial system, supporting and protecting the quality and integrity of the judicial system support the judiciary and improve the administration of justice.~~

(C) We ~~are a professional organization, promoting the professional excellence of bar members advance a fair, inclusive, and accessible justice system.~~

(D) We are advocates for diversity, equity and inclusion within the legal community and the provision of legal services.

(E) We are champions for access to justice, fostering the public's understanding of and access to legal information, legal services, and the justice system.

Oregon State Bar
Special Open Session of the Board of Governors
February 22, 2019
Minutes

President Chris Costantino called the meeting to order at 9:17 a.m. on February 22, 2019. The meeting adjourned at 11:57 a.m., reconvened at 1:00 p.m. and then adjourned at 2:00 p.m. Members present from the Board of Governors were John Bachofner, Rob Gratchner, Vanessa Nordyke, Tom Peachey, Liani Reeves, Traci Rossi, David Wade, John Grant, Bik-Na Han, Kamron Graham, Katherine Denning, Eric Foster, Whitney Boise, Colin Andries. Not present were Jenny Cooke, Joseph Hesbrook, and Eddie Medina. Staff present were Helen Hierschbiel, Amber Hollister, Dawn Evans, Susan Grabe, Judith Baker, Keith Palevsky, Kay Pulju, Danielle Edwards, and Cassandra Dyke.

1. Call to Order

The board accepted the agenda, as presented, by consensus.

2. President's Report

Ms. Costantino provided an overview of her work as Bar President.

3. 2019 Strategic Areas of Focus

B. Revised OSB Strategic Functions

Ms. Reeves presented recommendations from the Policy & Governance Committee.

Motion: The Policy and Governance Committee moves to adopt revised OSB Strategic Functions & Goals.

Ms. Reeves summarized the committee recommendation as set forth in Exhibit A. In keeping with the board's discussion at its retreat and the 2019 action plan adopted by the board, the committee's goal was to more closely and clearly align the bar's functions with its public service mission and to condense the functions from five to three. Ms. Reeves noted that the primary changes were to wrap "promoting professional excellence" into the first function, and to combine the access to justice and diversity, equity and inclusion functions. Ms. Reeves asked the board to approve the committee's revised OSB Strategic Functions & Goals. **[Exhibit A]**

Mr. Bachofner expressed concern that lawyer professionalism is not reflected in the revised functions.

Motion: Mr. Bachofner moved to amend the committee motion relating to Goal #1 as follows: "Protect the public by ensuring competence, integrity, and professionalism in the legal profession."

Ms. Han proposed the following friendly amendment to Mr. Bachofner's motion: "Protect the public by ensuring competence and integrity and promoting professionalism in the legal profession." Mr. Bachofner accepted the friendly amendment.

Mr. Peachey seconded Mr. Bachofner's motion, as amended by Ms. Han.

The board voted unanimously in favor of the motion to amend.

The board voted unanimously to adopt the Committee motion, as amended. The motion passes.

C. Amendments to Listserv and Editorial Policies

Ms. Reeves presented the amendment to the Listserv and Editorial Policies.

Motion: Julia Rice moved and Liani Reeves seconded to adopt Amendments to Listserv and Editorial Policies & Guidelines. The motion passed by unanimous vote. **[Exhibit B]**

D. 2018 Diversity Action Plan (DAP) Implementation.

Mr. Puente summarized the 2019 DAP Implementation Report. Each department at the bar took responsibility for its own part of the DAP, and adjustments have been made as we have learned from the work. **[Exhibit C]**

4. BOG Committees

A. Policy and Governance Committee

1. Loan Repayment Assistance Program Amendments

Ms. Reeves presented the amendments to the Loan Repayment Program Policies and Guidelines.

Motion: The Policy and Governance Committee moves that the Board of Governors adopt the LRAP Policies and Guidelines amendments **[Exhibit D]**

The motion passed by unanimous vote.

2. Lawyer Referral Service Program

Ms. Reeves presented on the LRS program options for charging panelists.

Motion: Policy and Governance Committee motion to create trigger of \$250.00 before the bar charges a percentage fee for panelists. **[Exhibit E]**

Mr. Grant and Mr. Peachey abstained. All other board members voted in favor. The motion passed.

Ms. Reeves presented the options to the RIS Program revenue usage.

Motion Policy and Governance Committee motion to invest LRS revenue as follows: to create videos for completing court forms, to commit funds to developing the Landlord Tenant mobile application that was first created in beta form by bar law clerk Ravyn Goss in conjunction with Perkins Coie, and to utilize the LRS budget for the continued creation of the bar's public information videos. **[Exhibit E]**

The motion passed by unanimous vote.

B. Board Development Committee

1. Appointment of various Committees, Counsels, and Boards [Exhibit F]

Mr. Bachofner presented the committee's recommendations for several committees.

Motion: The Board Development Committee moved to approve the appointments to all committees as outlined.

The motion passed by unanimous vote.

2. Board of Bar Examiners Co-Grader Recommendations

Mr. Bachofner presented the committee's recommendation for the Board of Bar Examiners.

Motion: The Board Development Committee moved to approve the Board of Bar Examiners Co-Grader list to be recommended to the Supreme Court for appointment

The motion passed by unanimous vote.

3. BOG and HOD Election Outreach

Mr. Bachofner encouraged board members to let members know about the openings on the HOD and BOG.

C. Budget and Finance Committee

1. Auditor's Introductory letter from Moss Adams

Mr. Wade presented the report about the auditors for the bar.

Motion: Budget and Finance Committee moved that Moss Adams LLC serve as our auditors for 2020.

The motion passed by unanimous vote.

2. Neutral Use Restrooms

Mr. Wade presented a report about the neutral use restroom on the first floor of the Oregon State Bar building.

Motion: Budget and Finance Committee moved that \$30,000 be applied from capital reserve funds to build a neutral restroom on the first floor where the janitor's closet is currently located.

Mr. Wade explained that the Budget and Finance Committee is still discussing the Client Security Fund and the amount of money needed in reserves to cover the outstanding claims. The Committee is aware that the OSB Bylaws require that the board maintain \$1 million in addition to the amount of pending claims in reserves. Based on current projections, the board does not

currently have sufficient funds in reserve. The Committee will consider options including designating additional funds in reserve, amending the reserve policy and pro-rating payment of claims and develop a recommendation for the board.

The motion passed by unanimous vote.

D. Public Affairs Committee

Eric Foster gave a report on the Public Affairs Committee and the bills and amendments that are currently pending in the legislature.

E. Appellate Screening Committee

Tom Peachey reported that there are 15 candidates for the Oregon Court of Appeals position. Appellate screening interviews are scheduled on February 26-27, 2019. The committee will bring back a proposed list of highly qualified candidates for approval by the board. Mr. Peachey asked that if anyone had any feedback about the candidates to please share.

5. Professional Liability Fund

A. Revision to PLF Policy 2.300

Ms. Bernick presented the amendments to the PLF Policy 2.300.

Motion: Mr. Gratchner moved and Mr. Wade seconded to approve the revision to the PLF Policy 2.300. Mr. Bachofner and Mr. Peachey abstained from the vote. The remaining board members voted in favor.
[Exhibit G]

The motion passed.

6. OSB Committees, Sections, Counsels, and Divisions

Oregon New Lawyers Division Report Joel Sturm presented the ONLD report. **[Exhibit H]**

7. Other Items

Ms. Hierschbiel presented the members letter regarding the Client Security Fund cap.

A. Request for Changes to the Client Security Fund from Oregon State Bar members. Ms. Hierschbiel outlined member comment on the Client Security Fund claim limit of \$50,000 among other issues. The board agreed by consensus to refer the issue to the Client Security Fund Committee for discussion at their next meeting on March 16, 2019.

B. Changes to Bar Rules of Procedure

Ms. Evans presented the changes to the Rules of Procedure.

Motion: Mr. Bachofner moved and Mr. Boise seconded to accept the proposed changes to the Bar Rules of Procedure and to send them to the Supreme Court for approval. [**Exhibit I**]

The motion passed by unanimous vote.

8. Closed Sessions

A. Executive Session (pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1))

The board went into closed session pursuant to ORS 192.660(2)(f) and (h) and ORS 192.690(1).
The board then reconvened in open session.

Motion: Ms. Reeves moved and Mr. Bachofner seconded to approve the proposed settlement with Ms. Scott on UPL Case Shianne Scott 2017-42.

The motion passed by unanimous vote.

9. Consent Agenda

Ms. Costantino asked if any board members would like to remove any items from the consent agenda for discussion and a separate vote. There was no request to do so.

Motion: Ms. Reeves moved and Mr. Grant seconded to approve all items on the consent agenda.

The motion passed by unanimous vote.

10. Good of the Order (Non-Action Comments, Information and Notice of Need for Possible Future Board Action)

Ms. Hierschbiel invited board members to review articles of interest included with the board agenda.

OREGON STATE BAR

Board of Governors

Meeting Date: February 22, 2019
From: Policy & Governance Committee
Re: Proposed Revisions to Strategic Functions and Goals

Action Recommended

Revise the OSB Strategic Functions and Goals as set forth below.

Background

The OSB Board of Governors (BOG) is charged by the legislature (ORS 9.080) to "at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice."¹ The Oregon State Bar (OSB) is also responsible, as an instrumentality of the Judicial Department of the State of Oregon, for the regulation of the practice of law.² As a unified bar, the OSB may use mandatory member fees only for activities that are germane to the purposes for which the bar was established.³

The mission of the OSB is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

The BOG has translated the statutory charge and mission into the following five core functions that provide overall direction for OSB programs and activities:

FUNCTION #1 – REGULATORY BODY

GOAL: Protect the public by ensuring the competence and integrity of lawyers.

FUNCTION #2 – PARTNER WITH THE JUDICIAL SYSTEM

GOAL: Support and protect the quality and integrity of the judicial system.

FUNCTION #3 – PROFESSIONAL ORGANIZATION

GOAL: Promote professional excellence of bar members.

FUNCTION #4 – ADVOCATES FOR DIVERSITY, EQUITY AND INCLUSION

GOAL: Advance diversity, equity and inclusion within the legal community and the provision of legal services

¹ Webster's Dictionary defines jurisprudence as the "philosophy of law or the formal science of law." 'The "administration of justice" has been defined in case law variously as the "systematic operation of the courts," the "orderly resolution of cases," the existence of a "fair and impartial tribunal," and "the procedural functioning and substantive interest of a party in a proceeding."

² The OSB's responsibilities in this area are clearly laid out in the Bar Act, ORS Chapter 9.

³ In *Keller v. State Bar of California*, 499 US 1,111 S.Ct 2228 (1990), the US Supreme Court held that an integrated bar's use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

FUNCTION #5 – CHAMPIONS FOR ACCESS TO JUSTICE

GOAL: Foster public understanding of and access to legal information, legal services, and the justice system.

On January 11, the Board of Governors adopted Areas of Focus for 2019, which include a commitment to review these strategic functions to ensure they are aligned closely with the bar's public service mission and statutory charge.

Board members also suggested using the bar's talking points around the history and purpose of the unified bar as a starting point for considering possible revisions to the functions and goals.

The Policy & Governance Committee recommends that the Board of Governors adopt the following new Functions and Goals:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

Article 11 Communications

Section 11.1 General Policy

Communications of the Bar and its constituent groups and entities, including printed material and electronic communications, should be germane to the law, lawyers, the practice of law, the courts and the judicial system, legal education and the Bar in its role as a mandatory membership organization. Communications, other than permitted advertisements, should advance public understanding of the law, legal ethics and the professionalism and collegiality of the bench and Bar.

Section 11.2 Editorial Policy

Subsection 11.201 Editorial Advisory Committee Policy

The Board will appoint an Editorial Advisory Committee. The Editorial Advisory Committee will review and recommend editorial policies for bar communications to the Board for approval. Periodically, the committee will meet to review and provide feedback on the planned content for The Bulletin to the editorial staff.

Subsection 11.202 Editorial Policies

All editorial policies will be approved by the Board. Editorial policies may address such matters as letters to the editor, story placement, headlines and scheduling, advertising and rates and similar topics.

Subsection 11.203 Review by Chief Executive Officer

The Chief Executive Officer has sole discretion to determine whether material submitted for publication meets the standards set forth in or adopted pursuant to this section and to accept or reject material submitted to the Bar for publication based on that determination.

Subsection 11.204 Communications Attributed to Bar

Any communications attributed to the Oregon State Bar or the Board of Governors must be approved by the Chief Executive Officer or the Chief Executive Officer's designee. Any content attributed to the Oregon State Bar or the Board of Governors must be labelled to indicate its source or attribution. All communications attributed to the Bar must be consistent with Article 10 Diversity and Article 12.1 Guidelines.

Section 11.3 Media Relations

The Bar will be responsive to the needs of the media and will identify persons to speak for the Bar. All statements made to the media, whether oral or by news release, must be informational in nature and must avoid statements of personal opinion or positions not considered or adopted by the Board. The President is the official chief spokesperson for the Bar. If public appearances or statements by the chairperson or other officer or member of any bar committee are deemed necessary, prior authority must be obtained in advance from the President.

Section 11.4 Membership Surveys and Questionnaires

(A) Any survey or questionnaire to all members of the Bar from a section or non-bar person or group must have the prior approval of the Board.

(B) A survey to specific groups of the membership from bar staff must have the prior approval of the President or President-elect. A survey to all members of the Bar must have the prior approval of the President or President-elect.

(C) A section may survey its own membership without prior approval.

DRAFT

Editorial and Advertising Guidelines

Oregon State Bar Bulletin

Definitions and Purposes

The Bulletin is published for members of the Oregon State Bar. The purpose of the Bulletin is to provide the members of the Oregon State Bar with information that will directly affect their practice of law in Oregon, will aid and improve their business, and will keep them informed on activities and issues in the legal profession. Humor and human-interest articles are also published. It is not a consumer magazine, nor a law library text/review book. We strive to publish articles that are topical, thought-provoking, and address issues and topics of interest to significant segments of the bar. We aim to be read, be quoted and be retained.

The Bulletin is published 10 times a year – monthly, except for two-month issues in February-March and August-September. The print version is published in a standard magazine format, 8 1/2 x 11 inches, about 56-72 pages per issue, and the online version is published in manner intended to replicate the presentation of the print version. As a general rule, each issue contains two main feature articles, regular and semi-regular columns, and regular departments, such as "Among Ourselves" and "Moves." The Bulletin also contains a section known as "Bar News." The purpose of this section is to update members on state bar meetings, events and policies; and law-related developments, law-related organizations, judicial updates, and other news items of potential interest to OSB members.

Article Submission

Articles should be approximately 1,500-2,500 words in length, unless another arrangement between the Editor and author(s) is made. All submitted articles should be delivered electronically using standard word-processing software. An emailed cover letter should accompany the article containing: a) name(s) of author(s); b) a suggested title and appropriate subheads for the article; c) an outline of the article; and d) a brief (2-3 sentence) biography of the author(s). Authors must fully disclose any personal or professional involvement in the subject of any article. If any such disclosure involves a pending legal matter, that information will be published as an Editor's note to the article.

Footnotes should be typed on a separate page at the end of the article, although every attempt should be made by the author(s) to incorporate necessary information within the body of the article. Footnotes are used only to amplify a point in the text or cite a source and should not become a separate article in themselves. Generally, the Bulletin uses "A Uniform System of Citation," a reference guide published by the Harvard Law Review Association, for footnote style. If possible, footnotes should be limited to no more than 15 per article.

Upon receipt of an unsolicited article, idea outline or query letter, the author will receive an "acknowledgement" message from the Editor stating that the article, idea outline or query letter will be reviewed by the Editor to determine whether it answers the majority of the guideline questions listed below in the affirmative. The Editor will contact the author within two to three weeks regarding the possible publication of the article. Authors are strongly encouraged to submit query letters before the submission of articles.

Artwork, photographs and illustrations accompanying unsolicited or solicited articles are gladly accepted, but their use is not guaranteed. Submitted artwork, photographs and illustrations, whether published or unpublished, will only be returned at the sender's request.

General Publication Policies

The Bulletin strives to provide content of interest to OSB members. All articles published in the Bulletin must be germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar. All opinions, statements and conclusions expressed in submitted articles appearing in the Bulletin are those of the author(s) and not of the Editor, other Editorial staff, employees of the Oregon State Bar, or members of the Board of Governors. Publication of any article is not to be deemed an endorsement of the opinions, statements and conclusions expressed by the author(s). Any content attributed to the Oregon State Bar or the Board of Governors must be approved by the bar's CEO or General Counsel. Any such content attributed to the Oregon State Bar or the Board of Governors will be labelled to indicate its source or attribution.

All submitted material is subject to editing by the Editor. Material is edited for style, clarity and accuracy, and for purposes of space considerations. Some editing may involve selective omission of portions deemed by the Editor to be less important than others. References to personal characteristics (e.g., age, race, ethnicity, gender identity) of any person described or quoted in an article submitted for publication will be removed unless the description is germane to the article and has been reviewed and approved by the person described. The Editor will make every reasonable effort to inform the author of changes and to involve the author in any editing of technical, controversial or sensitive material. The Editor retains at all times authority regarding story placement, headlines and article scheduling.

Feature Articles

The following guidelines will be applied to every major article submitted for publication, whether unsolicited or solicited, and the author should edit his or her own work if it does not meet the following criteria:

1. Does the content of the article directly affect the practice of law in Oregon?
2. Will the information in the article help Oregon State Bar members in their daily business activities?
3. Is the topic of timely importance?

4. Is there broad interest to a significant portion of Oregon State Bar members?
5. Does the author(s) of the article have the necessary expertise to write about the subject in question, or has he or she conducted sufficient research to do so?
6. Is the article of an appropriate length to fully (but not overly) cover the subject? If determined by the Bulletin Editor to be overly long, can it be shortened? If determined to be too brief, can it be expanded upon?
7. Is the subject matter new material, not something already covered in the Bulletin within the last year or two?
8. Does the author present ideas in a balanced manner rather than presenting one side of an issue? If not, has the opposing viewpoint also been presented alongside the main feature?
9. Does the article contain information not already covered in another publication, such as in a local daily, weekly or monthly?
10. Is the article appropriate for the Bulletin rather than a section newsletter or other law-related publication?

An article need not satisfy all of the guidelines set forth above to be published and the Editor may make exceptions for articles that may be of general interest to OSB members. Examples include: human-interest articles about persons in the legal community; humorous or anecdotal articles; historical pieces; and creative writing. Such submissions are evaluated on a case-by-case basis by the EEditor, who retains responsibility for story evaluation.

Non-Feature Articles

Moves and Among Ourselves: As a courtesy to OSB members, the Bulletin provides at no charge separate columns announcing lawyer relocations and promotions ("Moves"), and other news of attorney members ("Among Ourselves"). Subjects of both columns must be members of the Oregon State Bar. (Paid announcements are discussed below in "Advertising; Lawyer Announcements.") Because of the volume of mail received, individual submissions for these columns will not be acknowledged by the Editor, except where a specific request for response is made by the author(s). Photographs are published for a fee.

Columns: Space is made available for publication of columns, some of which may recur from issue to issue, e.g., Managing Your Practice, Practice Tips, Legal Heritage, On Professionalism and Law & Life. Columns are subject to all policies outlined here. Publication of columns does not constitute a permanent agreement for ongoing publication; the status of all columns is subject to review by the Editor and the publications team (See "General Publications Policies; Story Development").

Departments: The Bulletin also includes some articles regarding particular departments or subjects that appear in most if not all issues, such as Bar Counsel and Legal Writer columns. It also saves room for President's Messages a particular bar president may wish to submit during his or her term and Chief Justice messages from time to time.

Opinions: Opinion pieces are published in the column "Parting Thoughts." Opinion pieces must be arranged in advance with the Editor, before consideration of publication, and must be 800 or fewer words. Opinion pieces may address any topic of law or legal practice, but may not contain language constituting an attack upon an individual, group or organization, where such language might be actionable by the subject of the attack.

Continuing Legal Education (CLE) Information: Coverage of Legal Publications and CLE seminars sponsored by the Oregon State Bar is provided on a space-available basis. The Bulletin places a low priority on providing Editorial coverage of non-Oregon State Bar CLE activities and publications; display and classified advertising may be purchased to publicize non-Oregon State Bar CLE activities and publications.

Letters to the Editor

The Oregon State Bar realizes that a wide range of subject matters are to be expected in letters to the Editor. The Bulletin strives to print as many letters as possible. Therefore, brevity is important, and preference will be given to letters that are 250 or fewer words. In the event of space limitations, the Editor may decline to publish letters that are more than 250 words. Preference is given to letters in response to articles, columns or letters to the Editor recently published in the Bulletin. Letters from Oregon State Bar members receive top priority for publication in the next available issue.

Letters must be addressed directly "To the Editor" and original to the Bulletin. No unsigned or anonymous letters will be printed; the Chief Executive Officer may waive this requirement, if such waiver is requested.

When responses occur over several issues, the Editor reserves the right to cease printing letters on the subject in question. The Editor also reserves the right to hold a letter to the Editor until a subsequent issue. Letters from non-Oregon State Bar members are published if space permits and if the subject matter is deemed to be of interest to Oregon State Bar members.

Letters to the Editor may be edited for grammatical errors, style or length, or in cases where language or information is deemed unsuitable or inappropriate for publication. The Editor reserves the right to select or withhold letters for publication, and to edit any and all letters chosen for publication. All such Editorial decisions shall be made without reference to the viewpoint or content of the letter so long as the content is germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar. The

Bulletin reserves the right not to publish letters containing language constituting an attack upon an individual, group or organization.

Copyright and Compensation

All material published in the Oregon State Bar Bulletin is copyrighted. Editor Permission for reprinting must be requested in writing; permission to reprint must be requested and granted prior to publication in another publication. Any material originally submitted to and published in the Bulletin may be reprinted by another publication with appropriate credit given to both the author(s) (if appropriate) and the Oregon State Bar Bulletin as original source(s) for the material.

The Oregon State Bar will not compensate for any unsolicited or solicited articles, unless agreed upon between the sender of the material and the Editor.

Advertising

Advertising is sold to OSB members and other advertisers for the purpose of offering goods or services to OSB members that are germane to the practice of law, lawyers, the practice of law (including the operation of a law office), the courts and judicial system, legal education or the Oregon State Bar. Except where noted, all advertising policies and pricing apply to OSB members and non-members equally.

Classified Advertising: Firms or organizations offering professional employment opportunities or services to OSB members are available at the same rate to OSB members and non-members. The Bulletin will not publish advertising that violates federal or state laws, including laws prohibiting discrimination in employment. The Bulletin will not publish advertising for law-related services provided by disbarred attorneys or for any other unlawful activity. Non-position and non-service classified ads are available to OSB members at a reduced rate. Editor

Display Advertising: Display advertising is available for purchase by both OSB members and non-members. Contact information is available in each issue of the Bulletin and current rates are available from the bar's website.

Lawyer Announcements are available to announce changes in law firms or practices and are available only to members of the Oregon State Bar, or their law firms or offices.

House and Filler Advertising. Advertising space may be available at no charge for Oregon State Bar programs, legal community partners and nonprofit organizations. Free advertising is offered on a space-available basis; the amount of space available for each issue will be determined only after layout is complete for all Editorial content and other advertisements. Requests for free advertising space must be made to the Editor. Guaranteed paid advertising is available at a discount to recognized nonprofit organizations.

Subscriptions and Circulation

The Bulletin is mailed to all active, inactive, active pro bono, retired and student members of the OSB and is also available in electronic format on the bar's website. Subscriptions are available to non-OSB members at the rate of \$50 per year. Complimentary copies of the publications are mailed to Oregon's law schools, a number of other state bars who reciprocate for mutual Editorial benefit, and local law libraries, on request. Complimentary copies are available at the discretion of the Editor or the Chief Executive Officer.

OSB List Serve FAQs and Guidelines

If you have a question that is not answered here, please email memberservices@osbar.org or call 800 452-8260 ext. 384 or 426. If you are an inactive, student, or non-member of the Oregon State Bar you will not have access to the member login area. To make changes to your list serve settings please contact the Member Services Department at memberservices@osbar.org or call 800 452-8260 ext. 384 or 426.

General List Serve Questions

How can I tell if my section has a list serve?

To check if a section you are a member of has a list serve, first access the [member login](#) page, then select List Serve Preferences under the Manage Your Profile tab. This page lists all list serves you can access. If a section you are a member of doesn't appear on the list then the section doesn't have a list serve.

Why was I added to this list?

All group or section members are added to list serves automatically. To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile tab**.

Who receives list serve messages?

If you post a message to the list serve you are sending that post to all of the members on the list. If you wish to comment to a list serve post you can respond to the sender only using the 'Reply' button. To post your response to the entire list you must use the 'Reply All' button.

Please use caution when discussing cases. List serve messages are not casual conversation, and may be viewed by opposing counsel or judges if they are list members or otherwise request access. Pressing delete does not mean that the data has been permanently deleted. Posts to the list are also subject to disclosure under the Oregon Public Record Law, ORS Chapter 192 et seq.

How do I change or update the email account I use on the list serve?

To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile tab**. Next select the list you would like to make changes to and select "edit" on the bottom right. Make any of the changes you'd like and be sure to click "save" next to the pencil on the bottom right. A pop up window will let you know your changes were successfully changed.

Note that if you change your primary email address with the OSB your list serve email address will also automatically change to the new email address associated with your bar record unless you have designated an alternate address.

How do I find previous list serve posts?

The Oregon State Bar does not keep an archive of list serve posts. We encourage those who want to have an archive to start their own. Below are instructions for various commonly used email types.

Gmail: Gmail uses a "Label" system instead of folders to filter email. To begin, open an email you would like to have filtered and click on the little icon at the top that looks like a pencil. This will allow you label the email either by selecting a label you have already made or by creating a new label. For example, if you would like all of your Estate Planning List Serve emails filtered into a folder labeled

"list serve" you should choose or create a label called "list serve." Next, click on the gear-shaped icon located on the top-right of your email (the word "Settings" should appear if you hover your cursor over it). Choose "Settings" from the pull-down menu, then click on the "Filters" tab at the top. Click "Create a New Filter" and type the list serve's name into the "Subject" field. In our example, you would need to type [estate] into the "Subject" field. Click "Create Filter With This Search" and check the box next to "Skip the Inbox" and the one next to "Apply the Label..." then choose the correct label from the pull-down menu.

Outlook: In Outlook go to "Tools" and then select "Rules and Alerts." Next, select "New Rule...". In Step 1 select "Move messages with specific words in the subject to a folder." In Step 2 change the underlined words to the list name (ex: [buslaw] or [consu]). Select the folder to which you wish to have the messages automatically moved.

Posting Messages

How do I post a message to a list serve?

To post a message you need to send an email addressed to the list serve. The end of each list serve address is @forums.osbar.org. You must put the list name before the @ symbol. For example, Business Law is buslaw@forums.osbar.org, House of Delegates is hod@forums.osbar.org. The list name appears in brackets at the beginning of the subject line of each list serve post.

Visit the Manage Your Profile tab on your dashboard and use the List Serve Preference link to view a list of list serves you can access. You must be a group member to participate in any bar list serve.

How do I respond to a posted message if I receive the digest format?

If you receive list messages via digest format and want to post a response please don't respond to the digest email. Instead, copy and paste the question or email you want to respond to in a blank email then type your response above the original question. Use the original poster's subject line.

Can I send attachments?

No, the OSB lists block attachments for security reasons. As an alternative, you may want to copy and paste the text of the attachment into the body of the email or post your attachment on a website and then send a link to the material.

Was my message distributed to the other list serve participants?

If you received a copy of your email then your message was successfully posted to the list.

Problems with List Serve Messages

Why am I not receiving list serve messages?

There are four common reasons for not receiving messages:

It is between midnight and 5:00 a.m. during the bar's nightly system update. Messages sent to the list serve during this time will be delivered when the system is finished updating.

Your section membership may have expired. Section membership runs on a calendar year. You can verify your current memberships by accessing the [member login](#) and clicking on Member Dashboard, then 5 Year Member History, then Sections. To join a section go to <https://www.osbar.org/store/db/dbhome.asp>.

Your email address on file with the bar is incorrect. To verify the email address on file, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences

under the List Serve header. Next, select the list you are not receiving messages from and click “edit” on the bottom right. If changes are necessary be sure to click “save” next to the pencil on the bottom right before exiting the page. A pop up window will let you know your changes were successfully saved.

Your spam filter may be catching list serve posts. Check your spam filter or contact your email provider to white list the domain: forums.osbar.org.

If you continue to experience difficulty, contact us at memberservices@osbar.org, or 800 452-8260 ext. 384 or 426.

Why are symbols and/or strange characters appearing in my posts?

This is the result of coding differences between the sender's and recipient's software. Most often you will see some form of question mark in place of an apostrophe or other symbol/mark. Sending your list serve posts in plain text email format should eliminate this problem.

Why am I unable to send a list serve message?

There are three common reasons you may not be able to post:

You are no longer an active member of the list. OSB list serves are closed which means you must be a member of the group or section that sponsors the list in order to participate. To verify the list serves you have access to, go to the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. The list serves you are a member of will appear in a separate pop up page.

You are using an email address that does not match your list serve registration. You can only post to the list from the email account registered for that particular list. To verify or change your list serve email address, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. Next, select the list you are trying to post a message to and click “edit” on the bottom right. If changes are necessary be sure to click “save” next to the pencil on the bottom right before exiting the page. A pop up window will let you know your changes were successfully saved.

Your message has an attachment. You need to delete all attachments, which may include your signature line, logos, and other images. After doing so, try sending your message again.

If you continue to experience difficulty, contact us at memberservices@osbar.org, or 800 452-8260 ext. 384 or 426.

Making Changes to Your List Serve(s)

How do I unsubscribe from a list serve?

To unsubscribe, change your email address, or modify your list serve settings, access the [member login](#) page, then select **List Serve Preferences** under the **Manage Your Profile tab**.

Am I required to use the same email account for all of the OSB list serves I participate on?

No, you can use different email accounts for different lists, but keep in mind you can only post from the email account registered for a particular list.

How do I change to digest format?

To modify your list serve message format, access the [member login](#), under the top left Manage Your Profile tab, select Change Your Preferences under the List Serve header. Next, select the list you are trying to modify and click “edit” on the bottom right. Be sure to click “save” next to the pencil on the bottom right before exiting the page after you have made the necessary change. A pop up window will let you know your changes were successfully saved.

Digest format is a plain text email sent once a day with all of the messages posted the prior day. For frequently used lists this is a nice alternative to receiving every message as posted throughout the day.

Considerations

Get permission to forward a message. Always ask the original sender before forwarding a message from a list serve to someone who is not a member of the list.

Only send messages such as "thanks for the information" or "me too" to individual posters -- not to the entire list. Do this by hitting Reply instead of Reply to All.

When you will be out of the office for an extended period of time, consider changing your list serve setting to digest mode so that other posters do not receive your out-of-office response.

Include a subject line related to the topic of your post; if you reply to a message received in digest mode, edit the subject line of your response.

Avoid re-sending the entire message to which you are replying -- just use the relevant parts. Do not re-send a digest back to the list serve.

Use a signature tag that includes your name, affiliation, location, and email address.

Please strive to be courteous and professional.

Guidelines

Listserves are a limited public forum provided to allow discussion among OSB members of issues germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar.

Do not post any information or other material protected by copyright without the permission of the copyright owner. By posting material, the posting party warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner, or otherwise has the right to post such material.

Do not post any information that violates federal or state laws, including laws prohibiting discrimination in employment.

In the event that any posting is brought to the OSB's attention, and the OSB will take all appropriate action and reserve the right to terminate access to any user who does not abide by these guidelines. All such decisions shall be made without reference to the viewpoint or content of the posting so long as the content is germane to the law, lawyers, the practice of law, the courts and judicial system, legal education or the Oregon State Bar.

DISCLAIMER

All OSB list serves are provided as a service to members. The messages and opinions expressed on the list serves are those of the authors and are not the opinions of the OSB, OSB employees, or the OSB Board of Governors. OSB list serves are not moderated by the OSB or its staff. The OSB and its Sections are not responsible for the opinions or accuracy of information distributed through the lists.

Any content attributed to the Oregon State Bar or the Board of Governors will be labelled to indicate its source or attribution. Any content attributed to the Oregon State Bar or the Board of Governors must be approved by the bar's CEO or the CEO's designee.

The OSB makes no warranties regarding the accuracy or correctness of the information provided on the list serves and accepts no liability for damages of any kind resulting from reliance on the information provided on this service. By posting, the posting member warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner. In addition, the posting member grants the OSB and members of the list the nonexclusive right and license to display, copy, publish, distribute, transmit, print, and use such information posted. Posts to the list are subject to disclosure under the Oregon Public Record Law, ORS Chapter 192 et seq.

Oregon
State
Bar

2018-2020 DIVERSITY ACTION PLAN

IMPLEMENTATION REPORT: YEAR ONE

DRAFT

MESSAGE FROM THE CEO

My goal for the Oregon State Bar's 2018-2020 Diversity Action Plan is to bring an equity and inclusion lens to all we do at the bar. This is not a mere aspiration; it is our obligation as an institution founded to improve the administration of justice. The right to self-regulate and the license to practice law are special privileges that only lawyers enjoy—ones that carry with them public responsibilities. Access to justice is not achieved unless our system is equitable and inclusive for all. The challenges to realizing this goal are many and ongoing, highlighting the need to remain focused and steadfast in our commitment. I am pleased to report that our engaged and dedicated staff and volunteer leadership have done exactly that—with the guide of this action plan.

I cannot say thank you often enough to the Diversity & Inclusion Department's Jonathan Puente, Lucy Taylor and Sarra Yamin for their expert guidance in the bar's diversity, equity and inclusion work over the past year. I also want to thank bar staff whose true ownership of their action items reflect their belief in and dedication to this work. Thank you also to our Auxiliary Committee members, for providing crucial feedback and helping to hold us accountable. Finally, thank you to our Board of Governors for your vision and support of diversity, equity and inclusion in Oregon's justice system.



Helen Hierschbiel
Chief Executive Officer

DIVERSITY ACTION PLAN 2018-2020

The Diversity Action Plan is available here:
https://www.osbar.org/_docs/diversity/2018-20DAP.pdf

A NOTE ON LANGUAGE

“Specialty bars” as referred to in the original Diversity Action Plan document has been updated with the term “affinity bars” throughout this report, where applicable, in order to clearly differentiate between the more broad term “specialty bars” (meaning law-affiliated professional organizations) and “affinity bars” (meaning professional organizations of lawyers whose missions are focused on advancing diversity, equity, and inclusion) per current terminology used, as applies to the intended approach for individual action items.

UPDATED DIVERSITY ACTION PLAN DOCUMENT

The Diversity Action Plan (2019 Revision) incorporates the updated target dates and action item owners detailed in this implementation report, plus any changes made per the predefined Plan Imperatives. (Plan Imperatives per the Diversity Action Plan outline that strategies and action items will be reviewed and adjusted as necessary throughout the implementation process.) The Diversity Action Plan (2019 Revision) will be posted on the OSB website in February 2019.

AUXILIARY COMMITTEE 2018

Thank you to our 2018 Auxiliary Committee members:

Jacqueline Alarcon – Oregon Women Lawyers (OWLS)

Kristen Asai – Oregon Asian Pacific American Bar Association (OAPABA)

Sara Ghafouri – Oregon Asian Pacific American Bar Association (OAPABA)

Tomas Hernandez – OSB Advisory Committee on Diversity and Inclusion (ACDI)

May Low – OSB Advisory Committee on Diversity and Inclusion (ACDI)

Aruna Masih – OSB Advisory Committee on Diversity and Inclusion (ACDI)

James Meiers – Oregon Minority Lawyers Association (OMLA)

Jonathan Patterson – OSB Advisory Committee on Diversity and Inclusion (ACDI)

Peter Sabido – Oregon Filipino American Lawyers Association (OFALA)

Hon. Ulanda L. Watkins – Oregon Chapter of the National Bar Association (OC-NBA)

MEMBERSHIP SPHERE

GOAL 1 Increase and sustain a diverse OSB and bench.

STRATEGY 1 Identify and gather information on experiences of lawyers from nondominant cultures.

ACTION 1.1.1 Conduct climate surveys.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create climate surveys to identify the barriers and opportunities faced by lawyers from nondominant cultures in Oregon. COMMUNICATIONS	In progress; 2019
2018	Conduct climate surveys. COMMUNICATIONS	In progress; 2019
2018	Conduct exit surveys for lawyers from nondominant cultures who leave the state or withdraw from active practice. COMMUNICATIONS	In progress; 2019

Summary: The Communications Department and Diversity & Inclusion (D&I) Department collaborated on this action item. The departments worked with community stakeholders, including the OSB Advisory Committee on Diversity and Inclusion (ACDI) and Oregon affinity bar leaders to develop questions for the survey. As stakeholder input was received and the survey developed, it was determined that the scope was too broad and the subject matter too personal to fit into a standard online survey. We concluded that it would be appropriate to: 1) expand the approach by integrating the focus group and exit survey elements of this strategy (Membership Sphere 1.1.2) into the climate survey process; and 2) appoint a consultant experienced in both research and equity work to facilitate the process and to report on their findings. An RFP was released, and research firm KGR+C, in partnership with the Center for Equity & Inclusion, was retained. KGR+C's proposed timeline indicates that the process will be complete in the first quarter of 2019.

ACTION 1.1.2 Facilitate focus groups to gather feedback on member experiences.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Create and conduct focus groups using the information gleaned from the climate surveys. COMMUNICATIONS	In progress; 2019
2020	Report to bar leadership on the focus group findings. COMMUNICATIONS	Pending; 2020

Summary: Focus groups will be integrated into the climate survey process (see Membership Sphere 1.1.1). There is no change expected to the timing of this action item currently, although it is possible that the 2020 target may be completed early.

MEMBERSHIP SPHERE

ACTION 1.1.3 Analyze lawyer fee rates and economic survey data to identify disparities for lawyers from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2019	Correlate information gleaned from Action 1.1.1 and Action 1.1.2. COMMUNICATIONS	Pending; 2019
2019-2020	Use the information gathered to identify issues that warrant addressing. MEMBER SERVICES	Pending; 2020

Summary: An addendum to the 2017 OSB Economic Survey (https://www.osbar.org/_docs/resources/Econsurveys/17EconomicSurvey.pdf) focused on women lawyers and lawyers of color was completed in 2018. The results will be analyzed in combination with the results of the climate survey (Membership Sphere 1.1.1), due to be completed early in the first quarter of 2019. Per the timing of these elements, we expect to correlate information on lawyer fee rates and disparities in late 2019.

STRATEGY 2 Ensure the effective retention of diverse bar members, including members from nondominant cultures.

ACTION 1.2.1 Develop D&I programs and other bar resources to support diverse lawyers who are new to Oregon (“lateral hires”), including lawyers from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Use the results from the Goal 1, Strategy 1 surveys and focus groups to identify new program needs. D&I	Pending; 2019
2020	Expand D&I programming to address lateral hire retention. D&I	Pending; 2020
2020	Expand D&I programming to address new member retention. D&I	Pending; 2020

Summary Pending; expected to complete per original timeline.

ACTION 1.2.2 Conduct outreach with legal employers to determine best practices for retaining lawyer employees from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collect information from legal employers. D&I	In progress; 2019
2019	Provide revised best practices toolkit to legal employers. D&I	2020
2020	Evaluate toolkit and outreach efforts. D&I	2020

Summary An initial meeting with managing partners of around 20 Portland firms was held in early 2018. Given the number of people involved, scheduling has been challenging and information collection was therefore not completed in 2018. However, the next meeting is expected to take place in early 2019. The related subsequent action items have been pushed forward accordingly.

MEMBERSHIP SPHERE

ACTION 1.2.3 Develop resources to assist legal employers in creating a diverse workforce.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a business case identifying the benefits of employing lawyers from nondominant cultures. D&I	Pending; 2019
2019	Create resources to assist employers with lateral hire retention programs for lawyers from nondominant cultures. D&I	Pending; 2019
2020	Begin to assess impact and reach of resources. D&I	Pending; 2020

Summary Development of the business case is contingent on the dialogue with legal employers (Membership Sphere 1.2.2) which is ongoing, with a new target date of 2019. In the meantime, research on existing business cases has begun. As part of this work, the D&I Department is considering developing a CLE on the benefits of inclusive hiring practices.

STRATEGY 3 Encourage, support, and promote diverse bar members, including members from nondominant cultures, in seeking judicial positions.

ACTION 1.3.1 Review the bar's process for obtaining feedback on judicial candidates to ensure it is qualitative in nature and supports the DAC's mission.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Modify bar bylaws to eliminate bar polls for judicial selection process. PUBLIC AFFAIRS	In progress; 2019
2018	Survey stakeholders regarding judicial screening process. PUBLIC AFFAIRS	Pending; 2019

Summary A draft modifying bylaws is under review by the OSB Board of Governor's (BOG) Policy & Governance and Public Affairs Committees. We plan to seek feedback from stakeholders regarding the judicial screening process in 2019.

ACTION 1.3.2 Increase outreach to bar members, including members from nondominant cultures, regarding judicial positions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Assess notice-of-judicial-vacancy recipient list and webpage placement of notices. PUBLIC AFFAIRS	Complete
2018	Assess placement of judicial vacancy notice to affinity bars and publications. PUBLIC AFFAIRS	Complete
2018	Modify judicial appointment recommendations process to assess cultural competency. PUBLIC AFFAIRS	Complete

Summary The judicial vacancy recipient notice list was updated to include affinity bar leaders and other stakeholders. A review of website placement of notices was conducted, and updates were made to increase visibility. Candidate review questions were updated to elicit information on cultural competency.

MEMBERSHIP SPHERE

STRATEGY 4 Engage and collaborate with specialty bars and other organizations to advance diversity, equity, and inclusion in the Oregon legal community.

ACTION 1.4.1 Participate in meetings between affinity bars and OSB leadership to learn about affinity bars' experiences and perceptions of the OSB as an institution, and of the OSB leadership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with affinity bars as requested to choose a facilitator and develop agendas. EXECUTIVE SERVICES	Complete.
2018	Provide OSB financial support for facilitating dialogue. D&I	In progress; 2019
2018	Attend the meetings and ensure OSB leadership participation, and follow up as appropriate. EXECUTIVE SERVICES	In progress; 2019

Summary A facilitator was agreed upon and retained, and an agenda for the first meeting which took place in July 2018 was developed. An outcome of the July discussion was to provide equity training for the BOG. The first BOG training session took place in November 2018, and content was on structural racism. Additional BOG trainings will take place in 2019. A plan for continued dialogue meetings in 2019 is to be determined.

ACTION 1.4.2 Increase BOG awareness of and engagement in the work of affinity bars.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Organize a reception in conjunction with a BOG meeting, and invite affinity bars to attend and network with the BOG. EXECUTIVE SERVICES	Complete
2018-2020	Invite affinity bars to attend and/or submit reports to BOG meetings, to report on their activities and events. EXECUTIVE SERVICES	Pending; 2019-2020
2018-2020	Ensure BOG representation at affinity bar events. EXECUTIVE SERVICES	Ongoing; 2019-2020 (2018 complete)
2019	Implement changes to the BOG's participation in affinity bar work, as agreed on during the facilitated joint leadership meetings. CEO	Pending; 2019

Summary A joint Multnomah Bar Association (MBA)/OSB reception was held on January 4, 2018 in conjunction with the January BOG Committee meetings. Invitees included leaders from the OSB BOG, OSB Oregon New Lawyers Division (ONLD), MBA, Multnomah Bar Foundation (MBF), MBA Young Lawyers Section (YLS), ACDI, OSB Diversity Section, MBA Equity, Diversity & Inclusion Committee, OAPABA, OGALLA (The LGBT Bar Association of Oregon), Oregon Hispanic Bar Association (OHBA), OMLA, OC-NBA, OFALA, Oregon Chinese Lawyers Association (OCLA), OWLS, Queen's Bench, and Campaign for Equal Justice (CEJ). A similar reception took place in January, 2019.

BOG members attended affinity bar events throughout the year, including the OHBA, OWLS, OAPABA and OGALLA dinners. Affinity bar leaders were not specifically invited to attend or submit reports at BOG meetings; however, the BOG president met one-on-one with the chair of most of the affinity bar groups

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and attended the OMLA luncheon in the spring of 2018. The 2019 President and CEO are exploring the possibility of attending affinity bar board meetings in 2019 as an alternative method of connecting with affinity bar leaders.

ACTION 1.4.3 Assist affinity bars in promoting their activities and events to OSB leadership and to OSB membership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct outreach with affinity bars on the services OSB can provide to the membership. MEMBER SERVICES	Complete
2018	Improve placement and accessibility of affinity bar information on the OSB website. MEMBER SERVICES	In progress; 2019
2018-2020	Invite affinity bars to have a table and to include promotional materials at OSB events to showcase their organizations with membership. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2019-2020	Include affinity bar events on the OSB website calendar in accordance with OSB communication guidelines. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary Our Director of Member Services met with affinity bar leaders at the end of 2018 to provide a summary of available services and to answer questions about how to access them. Additionally, a new service was implemented in 2018, whereby new membership lists were distributed to affinity bar leadership to support their recruitment efforts. Mission statements and leadership contact information for each of the affinity bars was added to the Diversity & Inclusion website, and more visible placement of this information on the primary OSB website is in progress.

Affinity bars were invited to include membership materials in new member packets for the 2018 spring and fall swearing-in ceremonies and affinity bar events were listed on the OSB website calendar, as requested; both processes are ongoing, and will continue into 2019-2020.

ACTION 1.4.4 Increase OSB technical coordination with specialty bars.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Explore possibilities for adding information about joining specialty and affinity bars to membership fee statement at dues payment/renewal. ACCOUNTING	Pending; 2019
2018	Enhance information sharing with affinity bars for continuing legal education and activities related to OSB functions. MEMBER SERVICES	In progress; 2019
2018	Update and enhance resource list of OSB services available to membership and communicate to affinity bars. MEMBER SERVICES	In progress; 2019
2018-2020	Provide affinity bars access to OSB membership lists through the public records request process. MEMBER SERVICES	Ongoing

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Summary A mechanism for allowing members to join sections at dues payment/renewal was implemented in December 2018. The bar is exploring ways to include general information about the existence of affinity bars and specialty bars to the membership during the dues payment/renewal process, and will continue this work in 2019.

On December 10, 2018, OSB staff met with affinity bars to discuss services that the bar provides to its membership. The OSB sought feedback from affinity bars on proposed areas of coordination. OSB will continue exploring these ideas with a plan to have a more complete factsheet available in early 2019.

New member mailing lists were provided to affinity bars after swearing in ceremonies and periodically throughout the year, as part of the bar's public records request process. The OSB will continue to share new membership lists with affinity bars as requested through 2020.

STRATEGY 5 Support an effective pipeline of diverse law students, including those from nondominant cultures, who feel sustained, welcomed, and encouraged to practice law in Oregon.

ACTION 1.5.1 Increase D&I program effectiveness.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Analyze current effectiveness based on data, current trends, and known issues. D&I	In progress; 2019
2019	Implement changes to D&I programming based on findings of analysis, to provide opportunities for law and pre-law students, including professional connections, legal experience, and financial support. D&I	Pending; 2019
2019	Formalize D&I program applicant criteria and review the application process to ensure fairness, transparency, and applicant pool reach. D&I	Pending; 2019
2020	Review progress based on implemented changes. D&I	Pending; 2020

Summary Data for D&I programs dating back to 1998 was collated, and participant surveys for 2018 D&I programs were released and analyzed. A process was developed to facilitate an effective and consistent means of tracking and recording program developments, updates, and findings, to support decision-making for future program development. Completion of program analysis is expected in early 2019, contingent on the timing of new software being implemented.

D&I introduced two new programs in 2018. The Collaboration and Partnership program was introduced to support community stakeholder work in retention and access to justice. Rebar is a holistic program designed to help JDs retaking the bar exam though a bar preparation course, in-person classes to develop testing skills and address known challenges, and mental health and personal support from the Oregon Attorney Assistance Program (OAAP).

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ACTION 1.5.2 Support diverse law students in Oregon, including students from nondominant cultures, through mentorship and community building, to encourage them to practice in Oregon upon graduation.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collaborate with Oregon law schools and other partners to create a robust and effective Opportunities for Law in Oregon (OLIO) orientation program. D&I	Complete
2019	Implement Oregon Council on Legal Education and Admissions to the Bar (OCLEAB) agenda item asking Oregon law schools to report on their diversity trends. ADMISSIONS	Complete
2020	Review progress based on implemented changes. D&I	Pending; 2020

Summary OLIO Orientation took place in August 2018 in Welches, Oregon. In addition to 49 students, we welcomed approximately 90 attorneys and other legal professionals, who presented on a wide range of content. The membership was invited to attend OLIO continuing education programming. Included in the event were also 11 judge participants, representatives from each of Oregon's affinity bars, plus members of the ONLD, OAAP, ACDI, and BOG. Student feedback, both anecdotal and via completed surveys, was overwhelmingly positive. 87% of survey respondents strongly agreed or agreed to the following statement: "I am leaving OLIO feeling better prepared for law school and beyond."

Diversity trend reporting was included as an agenda item at the October 2018 OCLEAB meeting; it was agreed that D&I reports would be a standing agenda item for all future OCLEAB meetings. (See also Membership Sphere 2.4.1.)

STRATEGY 6 Increase lawyer engagement in community organizations that encourage individuals from nondominant cultures to pursue legal education.

ACTION 1.6.1 Create awareness in the legal community about existing programs, to encourage individuals from nondominant cultures to pursue legal education.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a list of schools with pre-law programs, high schools with mock trial programs, and other educational organizations with school engagement initiatives. D&I	In progress; 2019
2019	Work with affinity bars, sections, committees, and other bar members to encourage member participation in the programs. D&I	Pending; 2019
2020	Obtain program feedback to evaluate effectiveness and reach. D&I	Pending; 2020

Summary We will consider the value of the 2018 target measure and how it can best support our program goals in 2019.

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GOAL 2 Identify and work to eliminate barriers in the legal profession for members from nondominant cultures.

STRATEGY 1 Increase OSB efforts to educate members on the value of diversity, equity, and inclusion.

ACTION 2.1.1 Review the applicable minimum continuing legal education (MCLE) rules and regulations to determine whether programs approved for access-to-justice credit support the DAC's mission.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify any changes needed to the MCLE rules and regulations. D&I	In progress; 2019
2019	Secure MCLE Committee and Supreme Court approval of changes to MCLE rules and regulations. GENERAL COUNSEL.	Pending; 2019

Summary The D&I Department, MCLE Committee, and ACDI have been collaborating on proposed revisions to the MCLE Rules and Regulations, beginning with the statement of purpose. Work on the proposed revisions to the rules and regulations will continue into 2019, with a final recommendation from the D&I Department and ACDI anticipated by mid-2019. The timing for requesting approval from the MCLE Committee, Board of Governors and Supreme Court is therefore expected as planned, in late 2019.

ACTION 2.1.2 Sponsor, promote, and encourage elimination-of-bias CLE programming, including implicit bias, equity, systemic racism, institutional racism, etc.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Deliver programming regarding Oregon Rule of Professional Conduct 8.4. CLE SEMINARS	Complete

Summary The following seminars were developed: *The ABCs of Oregon Legal Services: Accessibility, Barriers, and Challenges* (June 2018); *The State of the Union: Masterpiece Cakeshop and Other LGBT Law Developments*, and *The Science of Implicit Bias* (November 2018).

ACTION 2.1.3 Promote Legal Employers Toolkit to legal employers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with the OSB Diversity Section to complete the toolkit. D&I	In progress; 2019
2019	Distribute the toolkit. D&I	Pending; 2020
2020	Obtain feedback from toolkit recipients. D&I	Pending; 2020

Summary An RFP for completing the toolkit was released, and a consultant retained. Since the toolkit will be informed by the climate survey (Membership Sphere 1.1.1) and information gathered from legal employers (Membership Sphere 1.2.2), the new target date for toolkit completion is 2019.

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ACTION 2.1.4 Publish articles in the Bulletin related to diversity, equity, and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a pool of potential contributors/subjects for articles, and a publication schedule. COMMUNICATIONS	Ongoing; 2019-2020
2018	Develop a process for inviting affinity bars to submit article ideas or written submissions for publication in the Bulletin. COMMUNICATIONS	Ongoing; 2019-2020
2018	Consider developing a regular column on diversity, equity, and inclusion. COMMUNICATIONS	In progress; 2019
2019-2020	Publish articles using the pool and according to the schedule. COMMUNICATIONS	Ongoing; 2019-2020

Summary: The Bulletin planning process includes regular coverage of OSB priorities, including diversity, equity, and inclusion. New efforts at outreach were implemented in 2018, including meeting with the ACDI to help recruit members for possible pieces and to seek content suggestions. In 2019 a new Editorial Advisory Committee will assist with planning and oversight of the publication; one of the new committee's charges is to "Ensure that multiple and diverse perspectives are considered in planning and publishing all editorial content."

STRATEGY 2 The BOG functions in a way that is open and inclusive of different perspectives and experiences.

ACTION 2.2.1 Task the Board Development Committee with assessing needs and with using the assessment to provide programming for the BOG on diversity, equity, and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	BOG members conduct a self-assessment on bias (e.g., implicit bias test from the Harvard Project Implicit [https://implicit.harvard.edu/implicit/takeatest.html]). CEO	Ongoing; 2018-2020 (2018 complete)
2018-2020	Include at least one session on implicit bias, institutional racism, or equity principles for BOG members each year. CEO	Ongoing; 2018-2020 (2018 complete)

Summary The BOG's Board Development Committee discussed strategies for self-assessments during their May and June meetings. The BOG continued this discussion during its June meeting. President Nordyke (OSB President 2018) strongly encouraged BOG members to take the Harvard Project online implicit bias tests. This action item continues into 2019 and 2020.

BOG members attended a half-day equity training session in November 2018 which focused on leading organizational change. The program was led by a facilitator with experience presenting to state bars. This action item continues into 2019 and 2020.

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ACTION 2.2.2 Adopt a BOG policy to review all bar programs, services, and activities with impact on lawyers from nondominant cultures as a factor for evaluation.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Policy is reviewed by BOG Policy & Governance Committee and BOG. CEO	Complete
2018	Implement the policy and incorporate into BOG orientation materials and online resources. CEO	Complete

Summary At the June 2018 BOG meeting, the BOG's Policy & Governance Committee recommended that the BOG adopt a program review policy that includes impact on lawyers from nondominant cultures as a factor for evaluation. The new policy has been implemented and was used to evaluate a proposed new leadership academy, and is included in online resources.

STRATEGY 3 Support an open and inclusive award selection process for all OSB groups.

ACTION 2.3.1 Encourage transparency in the award nomination and selection processes.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a policy and nomination form template for section awards. MEMBER SERVICES	In progress; 2019
2019-2020	Encourage and assist sections and the Oregon New Lawyers Division (ONLD) with promoting their award nomination process to affinity bars. MEMBER SERVICES	Pending; 2019-2020

Summary A nomination form template and suggested process has been drafted and is under review. Our target date for the final version is June 2019, just prior to when most sections begin their award nomination process.

STRATEGY 4 Review the admissions process to determine whether all applicants are treated equitably under the admission rules and procedures.

ACTION 2.4.1 Create policies and procedures establishing the appropriate collection and use of demographic data from applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review current rules, policies, and procedures to determine best practices for collecting and using demographic data. ADMISSIONS	Complete
2019	Make changes to policies and procedures as needed, to safeguard data collected from being used or made available for an admission decision related to any particular applicant. ADMISSIONS	In progress; 2019
2020	Make changes to policies and procedures, where necessary, to appropriately collect and use demographic data for statistical analysis. ADMISSIONS	Pending; 2020

MEMBERSHIP SPHERE

Summary Research into data collection practices of other state bars was conducted. The October 2018 OCLEAB agenda included a request to hear from law schools about trends in law school applications, law school admissions process and standards, overall job market data and how that is affecting job placements for recent graduates. Oregon's law schools reported on their incoming classes, the general job market for new lawyers and engaged in a rich discussion with the OSB's D&I Director regarding ideas to keep applicants from nondominant cultures in Oregon. Each law school reported that they had their most diverse class yet. Each dean offered to share demographic data with the D&I Department. The Committee agreed that D&I reports would be part of all future OCLEAB meetings.

ACTION 2.4.2 Collect data from the OSB Admissions Department, Oregon law schools, and applicants, to identify admissions trends of demographic groups.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2020	Ask OSB applicants to self-identify as part of the application process. ADMISSIONS	Pending; 2020
2020	Begin to review data in respect to identifying admissions trends by demographic. ADMISSIONS	Pending; 2020

Summary Implementation is expected in 2020, per original target date.

GOAL 3 Enrich the OSB by increasing the diversity of member representation in volunteer and leadership roles.

STRATEGY 1 Educate OSB member groups on the value of diversity, equity, and inclusion.

ACTION 3.1.1 Create a benefit statement supporting the value of diversity.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Seek input from affinity bars and other stakeholders in creating the benefit statement. MEMBER SERVICES	Pending; 2019
2018	Gather baseline data to determine current member involvement in OSB volunteer and leadership roles. MEMBER SERVICES	Complete.
2019	Distribute the benefit statement to bar groups. MEMBER SERVICES	Pending; 2019
2020	Evaluate the effectiveness of these education efforts, based on changes identified in overall volunteer participation. MEMBER SERVICES	Pending; 2020

Summary Baseline data for 2018 volunteers was gathered and evaluated based on four broad categories of OSB involvement: committees, discipline boards, member-elected, and self-elected (i.e. ONLD and OSB sections). In looking at the four self-reported demographic areas, data indicated committee members are significantly more likely than the other OSB volunteer types to report their demographic information. In turn, the data showed higher participation of historically underrepresented groups in all four demographic categories compared to OSB membership data.

MEMBERSHIP SPHERE

STRATEGY 2 Increase diversity on all OSB self-electing boards and in membership elected positions.

ACTION 3.2.1 Encourage a diverse pool of candidates for BOG and House of Delegates (HOD) elections.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	BOG members actively encourage diverse members, including members from nondominant cultures, to run for vacant positions on the BOG and HOD (annually). MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Encourage affinity and local bars to inform their members of BOG and HOD vacancies, including list serve and website postings. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Encourage affinity and local bars to promote the importance of voting in HOD and BOG elections to their membership. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary The BOG Board Development Committee conducted outreach with each of the affinity bars regarding the BOG and HOD elections. Additional members of the BOG and staff engaged with members from nondominant cultures when encouraging members to run for election. When voting opened for the BOG election, affinity bars were asked to encourage their membership to participate in the election. See Membership Sphere 3.1.1 regarding baseline data gathered for member-elected volunteers.

ACTION 3.2.2 Increase diversity of member representation on self-electing boards to reflect the diversity of the OSB membership.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	BOG review of ONLD bylaws and policies to ensure the election process is transparent and supports equity and inclusion. CEO	Complete
2018	Meet with sections during the annual meeting process to share the benefit statement (Action 3.1.1) MEMBER SERVICES	In progress; 2019
2019-2020	Include demographic data on membership lists and rosters. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)
2019	BOG review of section bylaws and policies to ensure the election process is transparent and supports equity and inclusion. CEO	In progress; 2019

Summary Proposed changes to the ONLD bylaws relating to the election process were drafted and submitted to the ONLD and ACDI for input. Changes were then submitted to the BOG's Policy & Governance Committee for approval. The BOG adopted the proposed ONLD bylaw changes at its meeting on November 21, 2018. Changes to the section bylaws will be considered in 2019. The review of section bylaws has been separated out from the ONLD bylaws, and a new target date of 2019 has been added.

MEMBERSHIP SPHERE

OSB's Director of Member Services met with a number of sections to discuss the Diversity Action Plan (DAP) in 2018. To support sections in considering diversity as a factor when selecting volunteers for the nominating committee and executive committee slate, the OSB shared members' self-reported data with select section leaders. The benefit statement will be shared once available, likely by July 2019. See Membership Sphere 3.1.1 regarding baseline data gathered for self-elected board volunteers.

STRATEGY 3 Encourage diversity of volunteer speakers and planners for CLE events.

ACTION 3.3.1 Provide a resource list of affinity bars to bar groups planning CLE events.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a list of affinity bars and include a description of the affinity bars' mission statements. CLE SEMINARS	Complete
2019	Incorporate the DAC's mission and affinity bars list in CLE co-sponsorship guidelines. CLE SEMINARS	Pending; 2019

Summary The list, which will include mental health and substance use resources in addition to affinity bar information, has been finalized.

ACTION 3.3.2 Look for opportunities to collaborate with affinity bars for CLE events.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct an inventory of existing bar CLE events that would be suitable for collaboration with affinity bars evaluate areas for further coordination for affinity bar CLEs. CLE SEMINARS	In progress; 2019
2019	Create a bar CLE resource guide for affinity bars. CLE SEMINARS	Pending; 2019
2020	Distribute the guide and begin CLE event collaboration with affinity bars. CLE SEMINARS	Pending; 2019

Summary An inventory of existing bar CLE events for possible collaboration is being conducted, and is expected to be available by the end of June, 2019.

ACTION 3.3.3 Look for opportunities to diversify the pool of CLE speakers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Distribute the Leadership and Volunteer Opportunities CLE Speaker reports to section executive committees annually, with a reminder that the CLE planning committees have this resource and should consider diversity when selecting CLE subject-matter experts. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)

Summary The Director of Member Services met with section executive committees and shared volunteer lists throughout 2018.

MEMBERSHIP SPHERE

STRATEGY 4 Collaborate with the BOG and Board Development Committee to increase the diversity of lawyer and public member volunteers appointed by the BOG.

ACTION 3.4.1 Increase outreach to a diverse group of lawyers and nonlawyers, including individuals from nondominant cultures, for OSB volunteer positions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Organize an event co-sponsored by the OSB's D&I Department, the BOG, and affinity bars, to explain OSB leadership opportunities, selection processes for OSB volunteer appointments, and application processes for the BOG and HOD. D&I	Pending; 2019
2018	Request that affinity and local bars include a link to the OSB Volunteer Survey on their websites. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)
2018-2020	Provide notices of volunteer and leadership opportunities to affinity and local bar organizations for distribution to their members and through their respective newsletters, including to community organizations that support individuals from nondominant cultures. MEMBER SERVICES	Ongoing; 2019-2020 (2018 complete)

Summary We are reconsidering this event, and will request feedback from affinity bars on whether other approaches would be more valuable.

Recruitment for lawyer and public members was completed in 2018.

ACTION 3.4.2 Educate the Board Development Committee members on the need to review appointment recommendations and decisions through an equity lens.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Conduct an annual review of appointments with focus on demographic and geographic factors. MEMBER SERVICES	Ongoing; 2019-2020

Summary The BOG completes its annual appointments cycle in November during their final meeting of the year. A review of the appointments made in 2018 was conducted in January 2019 with the BOG's Board Development Committee.

MEMBERSHIP SPHERE

ACTION 3.4.3 Ensure the appointment process is efficient and effective and that the BOG has enough member information.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Board Development Committee reviews and refines internal processes. MEMBER SERVICES	Complete

Summary The review was conducted. Revisions to processes for appointment were initially implemented during the September 2018 Board Development Committee meeting. The committee will continue to discuss and refine its appointment process as necessary based on results from the annual review of appointments described in Membership Sphere 3.4.2.

STRATEGY 5 Develop a leadership institute for Oregon lawyers who support the mission of the D&I Department, including lawyers from nondominant cultures.

ACTION 3.5.1 Address gaps and barriers to leadership positions within the BOG and affinity bars for underrepresented members of the bar.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify gaps and barriers. D&I	Pending; 2019
2019	Craft a proposed course curriculum. D&I	In progress; 2019
2020	Implement the course. D&I	Pending; 2019

Summary The 2018 action item to identify gaps and barriers has been pushed forward to allow for our approach to be informed by stakeholder feedback, from the climate survey (Membership Sphere 1.1.1) and the affinity bar dialogue (Membership Sphere 1.4.1.)

As a precursor to the curriculum development process, a cohort of affinity bar leaders and other stakeholders attended the State Bar of Arizona's Leadership Institute in April 2018, to learn from their approach. The BOG has approved an ad hoc committee to craft a course curriculum, and this work will begin in 2019 in tandem with the preceding target measure to identify gaps and barriers.

MEMBERSHIP SPHERE

STRATEGY 6 Encourage diversity of volunteer editorial review boards and authors for Legal Publications books.

ACTION 3.6.1 Increase representation of diverse members, including members from nondominant cultures, on Legal Publications editorial review boards and as authors.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Contact local and affinity bars when recruiting new editorial board members and authors. LEGAL PUBLICATIONS	In progress; 2019
2019	Revise Editorial Review Board Guidelines to strongly encourage editorial review boards to consider diversity in identifying potential authors. LEGAL PUBLICATIONS	Pending; 2019
2020	Evaluate effectiveness of efforts to increase diversity of editorial boards and author pool. LEGAL PUBLICATIONS	Pending; 2020

Summary. Affinity bars were contacted for inclusion in the author recruitment survey for a recent publication. We plan to brainstorm additional methods of making editorial boards and author pools more inclusive, in 2019, and to collaborate with the D&I Department on recruitment outreach.

ACTION 3.6.2 Include more detailed biographical information and pictures of authors in front matter of books, to showcase diversity involvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Select two publications to include more detailed biographical information. LEGAL PUBLICATIONS	Complete
2019	Increase the number of publications that include detailed biographical information. LEGAL PUBLICATIONS	Pending; 2019

Summary The first publication with an extended bio was published in 2018 (*Veterans, Military Service Members, and the Law*). Three more publications are planned for a 2019 release with expanded bios: *ADR in Oregon*, *Construction Law*, and *Insurance Law*.

MEMBERSHIP SPHERE

STRATEGY 7 Evaluate the effectiveness of the New Lawyer Mentoring Program (NLMP) in respect to lawyers from nondominant cultures.

ACTION 3.7.1 Survey new lawyer participants to determine their level of satisfaction with the NLMP.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review the existing new lawyer survey and determine whether additional information needs to be gathered. MEMBER SERVICES	In progress; 2019
2018	Modify the survey as necessary and implement for all new lawyers upon program completion. MEMBER SERVICES	In progress; 2019
2019	Use the information gathered to identify issues that warrant addressing. MEMBER SERVICES	Pending; 2019

Summary Staff has reviewed the NLMP Completion Survey and identified a number of necessary changes to make the data gathered more useful in evaluating the experiences of new lawyer program participants.

ACTION 3.7.2 Increase the pool of diverse mentors participating in the NLMP, including mentors from nondominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Evaluate mentor availability and areas of underrepresentation. MEMBER SERVICES	Ongoing; 2018-2020 (2018 complete)
2018-2020	Conduct targeted outreach to ensure adequate availability of mentors from diverse member groups, including nondominant cultures. MEMBER SERVICES	Pending; 2019-2020

Summary Program staff reviewed the pool of mentors and determined that additional recruitment of mentors outside the dominant culture would benefit the program. In early 2019, staff will conduct targeted outreach to affinity bars, specialty bars and other stakeholders in an effort to increase the availability of mentors from outside the dominant culture.

ACTION 3.7.3 Review NLMP database fields to ensure adequate information is available when matches are made.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Revise NLMP forms as needed. MEMBER SERVICES	In progress; 2019

Summary Current database questions elicit sufficient new lawyer and mentor information to make effective mentor matches. Ongoing consideration is required to determine how to best use mentor information during the matching process.

PUBLIC OUTREACH SPHERE

GOAL 1 Increase representation and legal services to underserved and hard-to-reach communities in Oregon.

STRATEGY 1 Assess the civil legal needs of low-income Oregonians statewide, including hard-to-reach populations.

ACTION 1.1.1 Conduct planned Civil Legal Needs Study (CLNS) that provides comprehensive information about the legal needs of low-income Oregonians, including hard-to-reach populations.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Gather and analyze CLNS data. OLF	Complete
2018	Publish and share CLNS data with a wide range of stakeholders. OLF	In progress; 2019
2018	Conduct a media campaign to share the results of the CLNS. COMMUNICATIONS	Pending; 2019

Summary The CLNS report is complete, and a one page legislative advocacy piece has been completed using the CLNS data to be used in the 2019 Legislative Session to advocate for increased legal aid funding.

The CLNS will be published and shared with a wide range of stakeholders in 2019 and there will be a media campaign to share the results.

ACTION 1.1.2 Use the results of the CLNS to inform the legal services provided by the integrated statewide legal aid programs in accordance with the OSB Legal Services Program (LSP) Standards and Guidelines.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Legal aid providers review the results and use these results on an ongoing basis as a factor when setting priorities for legal services and developing access strategies for low-income Oregonians, including hard-to-reach populations. LSP	Pending; 2019

Summary As described in Public Outreach Sphere 1.1.1, preliminary analysis has been completed. The legal aid providers are aware of the those results and are involved in preparing the final CLNS report in addition to assisting in the preparation of the one page legislative advocacy piece. The legal aid providers will use the results of the CLNS coupled with information gathered from local/regional client needs assessment when setting priorities for legal service. This will begin in 2019 and will be an ongoing process.

Information about how the legal aid providers have incorporated the results of the CLNS when setting priorities for legal services will be included in the periodic accountability review of the legal aid providers conducted by the Legal Services Program.

PUBLIC OUTREACH SPHERE

ACTION 1.1.3 Use the results of the CLNS to inform the access strategies for low-income and hard-to-reach populations by the Oregon State Bar.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Review the results of the CLNS for possible OSB program changes. LSP	Pending; 2019
2020	Develop a plan for implementing access strategies. LSP	Pending; 2020

Summary These target measures are anticipated to be completed as planned. As a stakeholder, the OSB received the final CLNS report early in 2019. A review process will be set up to assess possible OSB program changes with a view to implementing access strategies.

STRATEGY 2 Ensure that the integrated statewide legal aid programs are targeting their services based on the most compelling needs of the client community, including hard-to-reach and diverse populations, including nondominant cultures, in accordance with the OSB LSP Standards and Guidelines.

ACTION 1.2.1 LSP staff conduct the accountability process outlined in the Standards and Guidelines.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Staff, legal aid providers, and the LSP Committee review the current accountability process and make changes as necessary, including incorporating review of effective technology. LSP	Complete
2018	Complete the accountability process, and submit a report to the BOG. LSP	In progress; 2019
2019	Legal aid providers implement recommendations from the 2018 review process. LSP	Pending; 2019

Summary The LSP Committee and staff conducted an accountability review of the legal aid providers and a draft report is complete. Staff and the LSP Committee reviewed the findings with all three legal aid providers in December, 2018. The report is scheduled to be submitted to the BOG in early 2019. It is anticipated that providers will address the findings outlined in the report by the end of 2019.

PUBLIC OUTREACH SPHERE

STRATEGY 3 Increase pro bono representation of low-income Oregonians and hard-to-reach populations.

ACTION 1.3.1 Establish a baseline of current pro bono hours.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Using the American Bar Association (ABA) survey results and hours reported by OSB Certified Pro Bono Programs, establish a baseline of pro bono hours. LSP	In progress; 2019

Summary The data needed to establish a baseline of pro bono hours has been gathered including results of the ABA pro bono survey and voluntary reporting data from Oregon attorneys. Analysis needs to be performed in order to use the ABA survey to determine a scaling factor to move from self-reported pro bono hours to an estimate of pro bono hours performed. Analysis of the CLNS performed by the Oregon Law Foundation may allow for an additional estimate of the number of individuals under 125% of the poverty level helped by pro bono attorneys.

ACTION 1.3.2 Use the results of the ABA pro bono survey to develop strategies that are focused on nondominant cultures and hard-to-reach populations.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify barriers to lawyers doing pro bono work and develop a plan for addressing them. LSP	Pending; 2019
2019	Implement the plan to address barriers to lawyers doing pro bono work. LSP	Pending; 2019-2020
2020	Survey OSB membership on pro bono work. LSP	Pending; 2020

Summary Of the top barriers to doing pro bono work identified by the ABA Pro Bono Survey, seven are related to time: fears of not having enough time to do pro bono work and fears that pro bono work would take more time than expected. These time concerns show the need to have discrete pro bono opportunities. These opportunities might be carefully defined unbundled services, implementing ABA Free Legal Answers, or encouraging more providers to conduct drop-in or “advise and refer” clinics.

Also present in the top ten barriers reported were concerns related to the subject area of pro bono work: fears of not having sufficient knowledge of practice areas, and of not having interest in the subject areas pro bono cases are available in. Rounding out the top ten was a preference to do non-legal volunteering.

An approach to addressing some of these barriers might be through marketing – communicating that pro bono is doable, even if you are not a subject expert; pro bono is satisfying no matter the subject area; and pro bono makes an important difference in people’s lives.

The ABA survey also identified features that could encourage Oregon attorneys to volunteer. Of the top ten, three features are already provided by the Oregon State Bar: malpractice insurance, CLE credit for pro bono work, and free or reduced cost CLEs – indicating a need for more publicity about the availability of these features (the Certified Pro Bono Program, credit provided for volunteering, and the free CLEs

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offered through the Pro Bono Fair and Celebration.) Another takeaway from the ABA survey was that asking judges and prominent attorneys to help encourage volunteering might be an effective tactic to increase pro bono participation.

Other features lawyers thought would encourage pro bono work were offering limited scope cases or allowing attorneys to select cases. These features seem to relate to the time concerns survey participants brought up in the barrier section. Some attorneys indicated a desire to pair with another attorney or mentor through pro bono, and a few mentioned administrative or research support as elements that would be helpful.

The work to identify a plan for addressing these barriers and identifying further barriers will be conducted in 2019. Depending on the details of the plan, it will begin in 2019 or 2020.

ACTION 1.3.3 Continue to monitor the use of the ABA Free Legal Answers resource.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Determine whether ABA Free Legal Answers will work as a resource for the OSB. LSP	Pending; 2019
2019	Implement, if identified as an appropriate resource. LSP	Pending; 2020

Summary We are waiting on IT resources and software implementation before this target measure can be tackled. The new target year is therefore 2019.

STRATEGY 4 Increase representation through increased funding for the integrated statewide legal aid programs to increase access for low-income Oregonians, including underserved and hard-to-reach communities in Oregon.

ACTION 1.4.1 Use the CLNS to inform banks about the scope of the unmet legal needs of low-income Oregonians to support increased legal aid funding in Oregon.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Increase Leadership Bank Program interest rate tiers on IOLTA to coincide with Federal Reserve Bank increases. OLF	Complete
2018	Incorporate CLNS results into talking points to work with the Oregon Bankers Association and the banking community, to increase interest rates on Interest on Lawyer Trust Accounts (IOLTA) held in Oregon. OLF	Pending; 2019
2019	Continue to monitor interest rate increases and adjust Leadership Bank Program interest rates as needed.	Pending; 2019

Summary In 2018, the OLF Revenue Enhancement Committee developed a strategy, based on an increasing federal funds interest rate, to work with banks to increase the interest rate they pay on IOLTA deposits. The strategy included making an adjustment to the OLF's Leadership Bank interest tiers for IOLTA deposits. All but one of the Leadership Banks committed to increase rates beginning January 1, 2019.

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Once the CLNS report is complete it will be shared with the banking community along with talking points that underscore the importance of paying an above market interest rate on IOLTA deposits to impact legal aid services to low-income Oregonians. This target measure will take place in 2019.

Although the OLF will continue to monitor interest rates throughout 2019, the OLF has made the decision that the January 1 increase is the only adjustment the OLF plans to make to its Leadership Banks interest rate tiers in 2019.

ACTION 1.4.2 Use the CLNS to inform the legislature about the scope of the unmet legal needs of low-income Oregonians to support increased legal aid funding in Oregon.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Establish a diverse network of leaders to support relevant issues and trends. PUBLIC AFFAIRS	Complete
2018	Meet with justice system partners during the interim period to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete
2019	Present information on access to justice to lawyer-legislators and bar members, to ensure message consistency. PUBLIC AFFAIRS	In progress; 2019

Summary Meetings with leaders and coalition partners have been ongoing in 2018, including an initial meeting with coalition partners using the CLNS data to ensure message consistency.

ACTION 1.4.3 Conduct media outreach campaign to support funding efforts.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop and execute a CLNS media outreach campaign. COMMUNICATIONS	In progress; 2019

Summary: The CLNS report is complete. OSB Media Relations staff has begun meeting with the OLF and our partners in the legal services community to craft a strategic outreach campaign. We expect this to be a key focus of work in early 2019, followed by additional effort throughout 2019 to capitalize on news hooks and other emerging opportunities.

ACTION 1.4.4 Explore partnering with the philanthropic community on the importance of funding legal aid to alleviate poverty.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with The Lawyers' Campaign for Equal Justice (CEJ) and legal aid providers to develop a plan to partner with the philanthropic community. OLF	In progress; 2019
2019	Implement the plan. OLF	Pending; 2019

Summary The OLF Executive Director has taken steps to become more familiar with Grantmakers of Oregon and Southwest Washington (GOSW) and received permission from the OLF board to join in

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December 2018. This allows the OLF to interact and connect with the broader philanthropic community which will enhance the ability of the OLF, the CEJ and legal aid to partner with the philanthropic community. This target measure's timeline was not met due to lack of time and the impact of the OLF department being understaffed.

GOAL 2 Ensure all Oregonians are able to access the bar's public protection programs.

STRATEGY 1 Engage in outreach to marginalized communities regarding the availability and purpose of the bar's public protection programs.

ACTION 2.1.1 Develop relationships with community organizations working in the public protection arena.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify and create a list of potential community partners. GENERAL COUNSEL	Complete
2019	Have a discussion with a representative from each identified group. GENERAL COUNSEL	In progress; 2019

Summary The OSB General Counsel's Office in partnership with the Lawyer Referral Service has developed a list of community partners. We are in the process of reviewing the list to determine our upcoming outreach strategy. In September 2018, bar staff presented at the Immigration Nonprofit Working Group's 2018 Immigration Forum for Service Providers, to outline bar public protection programs and services available to Oregonians. The forum was attended by approximately 200 representatives from local nonprofits who work directly with underserved populations. In 2019, we will continue discussions with community partners.

ACTION 2.1.2 Design and utilize a toolkit for member and public outreach on public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create program descriptions for public protection programs and collect related application and complaint forms to form a public protection programs toolkit. GENERAL COUNSEL	Completed
2019	Discuss and review the toolkit with representatives from community organizations and member representatives. GENERAL COUNSEL	Pending; 2019
2020	Share the toolkit with targeted audiences. GENERAL COUNSEL	Pending; 2020

Summary A description of public protection programs has been developed for use in the toolkit. Translations of all complaint/claim forms in six languages (Arabic, Russian, Simplified Chinese, Somali, Spanish, and Vietnamese) has been completed. A process for receiving and responding to complaints received in these languages is being developed in preparation for these complaint forms being released.

STRATEGY 2 Develop a comprehensive approach for providing English-language learners access to the bar's public protection programs.

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ACTION 2.2.1 Develop policy to enable access to programs for persons who speak, read, or write languages other than English.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Evaluate staffing and other resources in relation to language needs. GENERAL COUNSEL	In progress; 2019
2019	Write and adopt a policy providing that individuals who file complaints in languages other than English have full access to programs. GENERAL COUNSEL	In progress; 2019
2020	Develop multilingual complaint/application forms and informational materials for public protection programs. COMMUNICATIONS	In progress; 2020

Summary The Client Assistance Office (CAO) is exploring the use of live interpreter services in order to enable communication with members of the public concerned about a lawyer's conduct in Oregon when we are unable to effectively communicate in English or Spanish (for which sufficient resources already exist). We are developing a pilot program in which the bar will utilize interpreting and translation services to respond to written complaints received in a language for which we lack in-house language resources.

The OSB website currently includes a translation tool option, allowing a user to translate information about the complaint process, and complaint forms may be submitted online; however, we recognize that these translation tools may not provide high-quality translation. Because of this, we will continue to explore options to improve the user experience of English Language Learners on the OSB website. For instance, in 2018, we released a Spanish language video regarding the CAO complaint process on the OSB website. See also Public Outreach Sphere 2.1.2.

STRATEGY 3 Ensure that the operation of the bar's public protection programs is fair, safe, and welcoming to all.

ACTION 2.3.1 Collect demographic data and feedback from users who access the bar's public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Explore methods to collect data. COMMUNICATIONS	Complete.
2019	Collect user demographic data and seek feedback on user experience. COMMUNICATIONS	Pending; 2019

Summary: Regulatory and Communications staff developed an online survey to assess user experiences based on the framework of procedural fairness. The survey includes a demographics section, allowing staff to compare the experiences of users from differing backgrounds. A link to the new survey will be included in notifications that a CAO or Disciplinary Counsel's Office (DCO) matter has been closed.

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ACTION 2.3.2 Analyze demographic data and feedback from users who access the bar's public protection programs.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Analyze the data collected. GENERAL COUNSEL	Pending; 2019-2020
2019-2020	Meet with members, stakeholders, and possible community partners identified in Action 2.1.1, to discuss data and seek additional feedback. CEO	Pending; 2020
2020	Identify approaches for creating a safer and more welcoming public protection program process. GENERAL COUNSEL	In progress; 2020
2020	Develop a plan to implement approaches. GENERAL COUNSEL	Pending; 2020

Summary Feedback from users is not scheduled until 2019; the timing of this item has been updated accordingly.

The OSB's General Counsel is working with Oregon judges on approaches for creating a safe and more welcoming public protection program process based on principles of procedural fairness. In April 2018, Multnomah County Circuit Court judges made presentation to bar staff and disciplinary board on implementing a procedural fairness program, as developed by the National Center for State Courts, at OSB.

We are developing a survey tool to benchmark procedural fairness goals to share with people who interact with the bar's public protection programs.

ACTION 2.3.3 Coordinate with the work of the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF).

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Participate in and support the work of the OSCCIF. CEO	Ongoing; 2019-2020 (2018 complete)

Summary Chief Justice Balmer established the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF) in 2016 in order to monitor and assist in the implementation of the Oregon Judicial Department's (OJD) Strategic Plan related to access, inclusion and fairness and to identify and coordinate efforts to integrate inclusion and fairness principles in all OJD practices and procedures. The OSB's CEO was appointed to the Council as the Oregon State Bar representative. In 2018, the CEO requested that the Chief Justice appoint the OSB Director of D&I to the Council in her stead. The OSCCIF met in March, June, September and December of 2018. OSCCIF worked with the OSB and Legal Aid to collect and coordinate online resources for self-representing litigants. They identified the resources each organization had shared and looked for gaps.

PUBLIC OUTREACH SPHERE

GOAL 3 Expand availability of public education, outreach, and self-navigation materials for underserved Oregon communities.

STRATEGY 1 Develop public legal information materials that are accessible to all Oregonians.

ACTION 3.1.1 Improve the readability of all OSB public legal information materials.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Determine the readability/grade level of existing content, and set a target standard (e.g., "Plain English" 8th grade reading level). COMMUNICATIONS	Complete
2019	Edit the 30 most accessed topics to meet the new standard. COMMUNICATIONS	In progress; 2019
2020	Edit the next 30 most accessed topics to meet the new standard. COMMUNICATIONS	Pending; 2020

Summary: We reviewed 97 legal information topics for readability on the Flesch-Kincaid scale. For reading grade level, our materials ranged from 7.6 to 18.6, with an average grade level of 12.7. Given the nature of the material, our target for revisions is 8.0 (8th grade) or lower. Members of the BOG's Public Service Advisory Committee have begun editing selected topics.

ACTION 3.1.2 Improve access to legal information materials for English-language-learners.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Present all public information materials online in formats that are compatible with the Google Translate app; post professionally translated materials available to the OSB online. COMMUNICATIONS	Complete
2019	Produce professional translation of the 20 most accessed topics in high-demand languages. COMMUNICATIONS	Pending 2019
2020	Produce professional translation of the next 20 most accessed topics in high-demand languages. COMMUNICATIONS	Pending 2020

Summary *Legal Issues for Older Adults 2017 Edition* was professionally translated into Russian, Spanish, Simplified Chinese, Vietnamese and is available for free download from the OSB website. To date a total of 430 non-English versions have been downloaded: 177 in Simplified Chinese, 123 in Russian, 85 in Vietnamese and 45 in Spanish. All other materials posted to the public pages are compatible with the Google translate app posted on our public information home page.

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ACTION 3.1.3 Increase availability of legal information provided in video and other non-text formats, featuring diverse presenters, including presenters from non-dominant cultures.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Continue the production of Legal Q&A videos in English, Spanish, and other high-demand languages; produce video introductions for OSB public protection programs in English and Spanish. COMMUNICATIONS	Ongoing; 2019-2020 (2018 complete)
2019	Produce and promote an instructional video for statewide dissolution forms (petitioner) in English and Spanish, in collaboration with justice system partners. COMMUNICATIONS	Pending; 2019
2020	Produce and promote instructional videos for other statewide family law forms. COMMUNICATIONS	Pending; 2020

Summary: Input on video topics was solicited from the BOG's Public Service Advisory Committee, ACDI and other groups through outreach by the OSB's Referral and Information Services (RIS) Manager promoting Lawyer Referral Services (LRS) and Modest Means. This work is ongoing, and attention to diversity in recruiting on-camera presenters is part of our recruitment efforts. To date we have completed 13 videos in Spanish, including 3 on the bar's Client Assistance Office, Lawyer Referral Service and Modest Means Program, respectively. An additional 3 videos are available in Vietnamese. The Vietnamese videos and several of the Spanish videos relate to immigration law and were produced in partnership with legal community partner organizations.

ACTION 3.1.4 Increase the availability of legal information materials to people with disabilities and special needs.

TARGET DAE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review online materials for compatibility with screen readers; add captioning for public information videos. IT	In progress; 2019
2019-2020	Continue updating and monitoring of materials. IT	Pending; 2019-2020

Summary: This work is being completed on an ongoing basis as the website is updated. The goal is to ensure that all public-facing files and forms are compatible with screen readers. Members of the Bar Accessibility Review Team (BART) are working with each department on creating accessible PDF formats and the IT Department is assigned with development of compatible online forms. Communications and CLE staff are working to add subtitles to already-produced videos, and will be testing live captioning for CLE seminars in 2019. This action item, originally under the ownership of the Communications Department, has been reassigned to the IT Department.

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STRATEGY 2 Enhance outreach to underserved communities regarding the Modest Means Program and Lawyer Referral Service.

ACTION 3.2.1 Assess current service levels and legal needs of underserved communities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Compile internal statistics on the Lawyer Referral Service and Modest Means Program, including calls from English-language learners, languages offered by panelists, and website translations. COMMUNICATIONS	Complete
2019	Compare services provided with results of the CLNS to identify underserved communities, and prioritize how the Lawyer Referral Service is meeting their legal needs. LSP	Pending, 2019

Summary: Communications staff gathered data on language use through all the OSB's RIS Department programs, including the LRS and Modest Means programs. Using 2017 as a baseline, we collected data on calls through our Spanish line, panelists who indicate they speak another language, and the amount of referrals made with an additional language selected (including what the additional language was). We can use this data to track subsequent years and whether the numbers increase due to our outreach efforts. Although we are unable to track usage of the online Google translate app, we do know that the non-English versions of Legal Issues for Older Adults have been downloaded 430 times since posting early in 2018.

See Public Outreach Sphere 3.1.3 for website information.

ACTION 3.2.2 Implement outreach plan to underserved communities, including marketing and coordination with community partners.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Begin outreach to already identified underserved communities. COMMUNICATIONS	Complete
2019-2020	Continue outreach methods and monitor effectiveness. COMMUNICATIONS	Pending; 2019-2020

Summary: Outreach efforts in 2018 included development of a list of community partners and meetings with Disability Rights Oregon, Catholic Charities, Proyecto Unica, the American Civil Liberties Union (ACLU), American Immigration Lawyers Association (AILA) and the OAAP. These meetings have already led to partnerships on Legal Q&A videos and volunteer recruitment efforts. The ACDI was asked for additional recommendations. This work is ongoing, in combination with outreach on the Lawyer Referral Service and Modest Means Program, and will be completed in conjunction with the work outlined in Public Outreach Sphere Goal 2.1.1.

PUBLIC OUTREACH SPHERE

STRATEGY 3 Increase issue-based public education, targeting media outlets with legal trends and issues that affect underserved communities.

ACTION 3.3.1 Establish a diverse network of lawyers and bar groups who are leaders in relevant areas of practice.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with select committees, sections, and affinity bars to support justice system issues. PUBLIC AFFAIRS	Ongoing; 2019-2020 (2018 complete)
2019	Develop a framework to continue the discussion and coordinate ongoing efforts. PUBLIC AFFAIRS	Pending; 2019

Summary Bills that the bar supported in the 2018 legislative session included:

- HB 4008: Prohibits fact finder from determining plaintiff's damages for civil cause of action using calculation for projected future earning potential of plaintiff that takes into account race or ethnicity of plaintiff.
- HB 4095: Establishes privilege for communications with lawyer referral service.
- HB 4097: Modifies provisions relating to law libraries and law library services provided by counties.
- HB 4010: Establishes Task Force on Addressing Racial Disparities in Home Ownership.

ACTION 3.3.2 Adopt a plan for responding to breaking legal news when it offers an opportunity to educate and enhance awareness of issues affecting underserved communities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Work with bar leaders on a media response policy. COMMUNICATIONS	Pending; 2019/20
2019	Develop and implement the policy. COMMUNICATIONS	Pending; 2019/20

Summary: Communications and media staff will conduct outreach with bar leaders, affinity bars, specialty bars and external partners to raise awareness and increase opportunities for outreach, including in more rapid-response circumstances. Implementation and revision of plan will continue throughout 2019.

PUBLIC OUTREACH SPHERE

GOAL 4 Improve the administration of justice to better serve under-represented and marginalized communities.

STRATEGY 1 Support OSB justice system funding priorities.

ACTION 4.1.1 Develop coalitions and collaborate with justice system partners and bar members to achieve OSB legislative priorities.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Meet with justice system partners during the interim to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete
2019	Host a Day at the Capitol to motivate members and educate legislative leadership. PUBLIC AFFAIRS	Pending; 2019
2019	Present information on access to justice to lawyer-legislators and bar members to ensure message consistency. PUBLIC AFFAIRS	Pending; 2019

Summary The OSB's Director of Public Affairs met with legislators and other justice system partners during the interim to discuss legislative concepts and funding priorities.

STRATEGY 2 Collaborate with the courts and support the Procedural Fairness in Courts Initiative.

ACTION 4.2.1 Develop lunchtime CLE series (Lunch and Learn) at the Capitol for staff and public on implicit bias and procedural justice.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018–2019	Conduct a lunchtime CLE on procedural justice (annually). PUBLIC AFFAIRS.	Ongoing; 2019-2020 (2018 complete)

Summary CLEs coordinated during the 2018 Legislative Days included content on Procedural Justice, Elder Abuse, and Statutory Interpretation. Planning for the 2019 CLE series is underway.

ACTION 4.2.2 Determine goals of the OSCCIF regarding data identification and collection.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a plan on how to best assist. PUBLIC AFFAIRS	Complete

Summary The OSB's Director of Public Affairs met with the criminal justice commission regarding justice reinvestment data and coordinated with OSCCIF regarding report recommendations and proposed changes to the Uniform Trial Court Rules (UTCRs.).

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STRATEGY 3 Support access to justice in the legislative arena.

ACTION 4.3.1 Collaborate with other organizations to support procedural fairness and justice system reinvestment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Host a Day at the Capitol; invite representatives from legal aid, indigent defense services, and coalition partners to participate in events. PUBLIC AFFAIRS	In progress; 2019

Summary This work is planned to take place in 2019. Day at the Capitol is an opportunity for lawyers to meet with their representatives and senators to talk about justice system issues directly related to the bar's mission. The OSB's Public Affairs Department arranges meetings for bar members with as many legislators as possible. The day is a chance to discuss the bar's priorities for the 2019 legislative session.

ACTION 4.3.2 Develop coalitions to support access-to-justice initiatives.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Meet with coalition partners during the interim to discuss legislative concepts and funding priorities. PUBLIC AFFAIRS	Complete

Summary During the 2018 legislative interim, Public Affairs Department staff regularly met with stakeholders on a variety of topics, including topics related to access to justice and criminal justice reform. This included meetings with legislators, staff and advocates who sought to update Oregon law in order to address oftentimes unintended collateral immigration consequences resulting from convictions of minor offenses.

ACTION 4.3.3 Educate lawyer-legislators, bar members, and coalition partners about the need for legal aid services and indigent defense.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Host an access-to-justice event with coalition partners (annually). PUBLIC AFFAIRS	In progress; 2019

Summary Public Affairs Department staff worked with outside groups to facilitate several events focused on access to justice and court funding. In December of 2018, the department hosted a Citizens Campaign for Court Funding breakfast that brought together attorneys representing business groups to advocate for the justice system. During the 2019 session, the Public Affairs Department will host a Day at the Capitol event that will focus largely on funding for legal aid and other justice system priorities.

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ACTION 4.3.4 Pursue consumer protection initiatives

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Pursue consumer protection initiatives related to the Futures Task Force Report . PUBLIC AFFAIRS	Complete
2019	Achieve progress in consumer protection initiatives in 2019 legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary HB 4095 (lawyer referral service attorney-client privilege legislation) and HB 4097 (law library resources bill) were passed.

ACTION 4.3.5 Improve resources for self-navigators.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-	Support court initiatives of the Futures Task Force. PUBLIC AFFAIRS	Pending; 2019
2019		
2019	Hold a successful legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary. This action item, originally under the ownership of General Counsel, has been reassigned to the Public Affairs Department. Implementation is pending.

ACTION 4.3.6 Use the CLNS to update legislators about the unmet legal needs of low-income Oregonians to support increased legal aid funding.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Establish a diverse network of leaders, including leaders from nondominant cultures, to support relevant issues and trends. PUBLIC AFFAIRS	In progress; 2019
2019	Hold a successful legislative session. PUBLIC AFFAIRS	Pending; 2019

Summary Throughout the 2019 session, the Public Affairs Department will work with other advocates for legal services such as the Campaign for Court Funding, to advocate for increase funding for legal aid. The bar has already introduced one piece of legislation to this end, and will be meeting with key legislators throughout session to discuss this issue. Legal Aid funding will also be a key focus at the OSB Day at the Capitol event in May 2019.

BAR OPERATIONS SPHERE

GOAL 1 Bar employees have a high level of diversity and inclusion competence and ownership.

STRATEGY 1 Provide educational opportunities for OSB employees.

ACTION 1.1.1 Provide one annual mandatory session focused on inclusion, equity, or cultural competence for all staff.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify topic and schedule presenter (annually). HUMAN RESOURCES	Ongoing; 2019-2020 (2018 complete)

Summary The 2018 mandatory session was on The Science of Implicit Bias, delivered by the Director of the National Diversity Council. Staff attendance was around 85%; staff who did not attend are being scheduled to view a recording of the presentation. Staff was surveyed for feedback on the presentation and that information will be evaluated. Input from staff on the 2019 topic will be requested.

ACTION 1.1.2 Provide one annual mandatory session focused on diversity, inclusion, equity, or cultural competence for managers and directors (in addition to the annual all-staff training).

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify topic and schedule presenter (annually). HUMAN RESOURCES	Pending; 2019 - 2020

Summary The timing of this action is contingent on the results of the pending cultural assessment survey (Bar Operations Sphere 2.1.1), which will inform the subject matter for this training. This action item is postponed accordingly, with implementation expected to begin in 2019.

ACTION 1.1.3 Provide at least one annual cultural awareness day for all employees.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Identify culture to highlight; hold activity (annually). D&I	Ongoing; 2019-2020

Summary After brainstorming potential content and format for this action item, we concluded that this action item provided a good opportunity to develop an employee education session, as opposed to a “cultural awareness” activity, and we adjusted the approach accordingly. We identified transgender and non-binary inclusivity as a topic that should be addressed with all employees, as a primer for the plan to install gender-neutral restroom facilities (Bar Operations Sphere 2.3.1). The training was conducted in February 2019 by a leader in LGBTQ advocacy and policy work.

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ACTION 1.1.4 Develop a “tip of the month” feature on the intranet that focuses on information and topics relating to diversity, inclusion, equity, or cultural competence.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Source information and post monthly on intranet. D&I	Ongoing; 2019-2020 (2018 complete)

Summary Our “D&I Monthly” intranet feature was introduced in January 2018.

January 2018: “Introducing D&I Monthly”; February 2018: Lunar New Year - a brief description of the holiday and its traditions, plus a link to Portland Lunar New Year events; March 2018: the nuances of sign language - video excerpt from a TED Talk by Christine Sun Kim; April 2018: background on and link to the Harvard Implicit Bias Test; May 2018: a history of LGBTQ Pride and the Stonewall uprising; June 2018: the 28th anniversary of the ADA; July 2018: OLIO Orientation - hear from OLIO alum about OLIO’s impact (video); August 2018: a video excerpt from Cracking the Codes by Shakti Butler, a film about the causes and consequences of systemic inequity – and a reminder that D&I has the full movie for employees to borrow; September 2018: on Mental Health Awareness Week and mental health resources; October 2018: short documentary on the challenges faced by trans people serving in the military; November 2018: Oregon’s affinity bars: link to mission statements, and where to find information about affinity bars; December: valuing neurodiversity - a video by psychologist Dr. Devon MacEachron.

STRATEGY 2 Ensure managers and directors are held accountable for professional development in relation to diversity, inclusion, equity, and cultural competence.

ACTION 1.2.1 Update managers’ and directors’ performance evaluation templates to ensure that diversity and inclusion ownership and competence are included as leadership attributes to be evaluated.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Review templates, change as necessary, and implement for year (annually). HUMAN RESOURCES	Ongoing; 2019-2020 (2018 complete)

Summary 2018 performance evaluation templates were updated and distributed to managers and directors.

ACTION 1.2.2 Encourage managers and directors to identify and participate in external educational opportunities that focus on professional development around diversity and inclusion.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018-2020	Discuss diversity and inclusion professional development during performance evaluation (annually). CEO	Ongoing

Summary A demonstrated commitment to and support of diversity and inclusion are attributes of leadership and professionalism outlined in the director performance evaluations. These items were highlighted in the written evaluations conducted in 2018. In addition, during regular meetings with

BAR OPERATIONS SPHERE

individual reports throughout the year, the CEO discussed equity and inclusion learning opportunities, both in moments of everyday life, and through professional trainings.

STRATEGY 3 Review current OSB language used in relation to diversity and inclusion, and make updates according to current best practices.

ACTION 1.3.1 Research best practices around diversity and inclusion language.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Collate findings into a best-practices report. D&I	In progress; 2019

Summary Initial work has begun, and will continue into 2019. Input from stakeholders will be solicited.

ACTION 1.3.2 Conduct an assessment of OSB language, including pronouns, used on all internal and external materials.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify language and all language locations for updating, using the best-practices report. D&I	In progress; 2019
2019	Develop a language update implementation plan. D&I	Pending; 2019
2019	Implement consistent language updates per the implementation plan. D&I	Pending; 2019

Summary Initial work has begun, and will continue into 2019. A first draft of recommendations to update the demographic categories used by the OSB was developed; further work will continue in collaboration with a leader in LGBTQ advocacy and policy, and other stakeholders.

ACTION 1.3.3 Update OSB staff regarding changes to best-practices terminology and language.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Include best-practices language updates within the annual staff education session. HUMAN RESOURCES	Pending; 2019

Summary Implementation is on schedule for 2019.

BAR OPERATIONS SPHERE

STRATEGY 4 Ensure the OSB bylaws are consistent with the OSB and DAC mission and goals around diversity and inclusion.

ACTION 1.4.1 Review bylaws and identify bylaws that need to be amended.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Identify bylaws. GENERAL COUNSEL	In Progress; 2019
2020	Draft and present amendments to the BOG for approval. GENERAL COUNSEL	Pending; 2020

Summary General Counsel has completed an initial review of OSB bylaws to present to the BOG for further consideration.

GOAL 2 Foster a welcoming and inclusive workplace and accessible programs, services, and Bar Center.

STRATEGY 1 Acquire an understanding of the bar's workplace culture.

ACTION 2.1.1 Devise and conduct a workplace culture assessment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Conduct a workplace culture assessment and analyze data. HR	In progress; 2019.

Summary We found that previously engaged consultants in 2018 provided disappointing survey drafts. In an effort to get the most useful results, it was decided to take a step back and start over. We are in the process of reviewing RFPs, utilizing the D&I Department's recommendations following their search for a consultant on other projects. Work will continue into 2019.

ACTION 2.1.2 Evaluate employees' reasons for leaving the organization.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review exit interview process and implement changes. HUMAN RESOURCES	Pending; 2019
2019	Develop a method for reviewing and analyzing data. HUMAN RESOURCES	2019
2020	Analyze and evaluate current and historic data. HUMAN RESOURCES	2020

Summary Work on this action item has not yet started.

ACTION 2.1.3 Conduct an internal salary equity assessment.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Conduct an assessment by a third-party contractor and analyze data. HUMAN RESOURCES	In progress; 2019

Summary This project is conducted by Human Resources at the direction of the OSB's General Counsel.

BAR OPERATIONS SPHERE

STRATEGY 2 Use the results of data collection to identify areas for improvement.

ACTION 2.2.1 Develop a plan to address areas that need improvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2020	Develop and implement the plan. HUMAN RESOURCES	2020

Summary Implementation is on schedule for 2020.

STRATEGY 3 Identify and resolve barriers to the OSB being a welcoming environment for all.

ACTION 2.3.1 Develop and implement a plan to ensure inclusive restroom access for all employees and visitors.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop the plan and identify needed resources. D&I	In progress; 2019
2019	Implement the plan. FINANCE AND OPERATIONS	Pending, 2019

Summary We are in the process of quoting the cost to convert an area on the first floor into a single use bathroom. Cost will determine if the construction portion of this project can be executed within the 2019 budget or if it will need to be deferred until 2020. Education as part of this plan took place in February 2019 (see Bar Operations Sphere 1.1.3.).

ACTION 2.3.2 Develop and implement a policy and procedure to create an inclusive environment for nonbinary and transgender employees.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Develop a plan and identify needed resources. HUMAN RESOURCES	Pending; 2019
2020	Implement the plan. HUMAN RESOURCES	Pending; 2020

Summary On track for 2019 implementation.

STRATEGY 4 Continue to identify and resolve barriers to accessibility for persons with disabilities to OSB programs, services, and Bar Center.

ACTION 2.4.1 Develop and implement a plan to identify and resolve barriers to OSB Center facility.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review building user feedback to identify ways to improve building accessibility. GENERAL COUNSEL	In progress; 2019
2019	Create a plan and identify needed resources to improve building accessibility. GENERAL COUNSEL	In progress; 2020

BAR OPERATIONS SPHERE

2020	Implement the accessibility plan. GENERAL COUNSEL	Pending; 2020
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Summary A survey of members with disabilities taken in 2016 showed about 15% of respondents had feedback regarding access to the OSB Center. The comments did not identify any physical barriers with particularity. The Bar Accessibility Review Team (BART) has identified a list of discretionary capital improvement projects to improve building accessibility, with a priority list, and has submitted it to the OSB's CFO for use in the budgeting process.

ACTION 2.4.2 Ensure OSB websites are compatible with screen readers.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Create a plan to continue identifying and updating portions of the website that are not accessible to persons utilizing screen readers. IT	Complete
2019	Implement the website accessibility plan. IT	Ongoing; 2019-2020

Summary: The current website is fully updated except for PDF downloads (see Public Outreach 3.1.4). An ongoing process is in place for tracking and resolving remaining problems as they arise while the website is rewritten. The Information Technology Department is assuming responsibility for this action item, which was previously assigned to General Counsel.

ACTION 2.4.3 Continue to educate bar staff and bar leaders about accessibility.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Gather feedback and identify areas where bar staff and bar leaders may require additional assistance or education on accessibility issues. GENERAL COUNSEL	In progress; 2019
2019	Hold bar staff training on accessibility. GENERAL COUNSEL	Pending; 2019
2019	Develop accessibility guides and recommendations that respond to bar staff and bar leaders' needs. GENERAL COUNSEL	Pending; 2019
2020	Distribute accessibility guidelines and recommendations to bar staff and bar leaders. GENERAL COUNSEL	Pending; 2020

Summary The primary efforts here for this work have been in outreach to OSB sections. Section websites are mostly compliant at this point, and all of their CLE activities are transferring to our CLE Seminars department in 2019, a step which will facilitate improved oversight and consistency in respect to the way reasonable accommodations requests and prioritizing accessibility for events are handled. Work on this action item will continue into 2019.

GOAL 3 Build a workforce that is diverse and inclusive at every level.

STRATEGY 1 Collect demographic data as one benchmark for measuring the diversity of applicants and the workforce.

ACTION 3.1.1 Evaluate the categories currently used by the OSB for measuring staff diversity.

BAR OPERATIONS SPHERE

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Assess categories and expand as necessary. HUMAN RESOURCES	In progress; 2019
2019	Implement revised data collection. HUMAN RESOURCES	In progress; 2019
2020	Develop and implement system for ongoing review and analysis of data. HUMAN RESOURCES	Pending; 2020

Summary The first month of analysis using the new categories was August 2018. The D&I Department will be providing updated categories for gender identity once their work on this item is complete, expected in 2019 (Bar Operations Sphere 1.3.2)

ACTION 3.1.2 Investigate options for assessing the diversity of applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Evaluate electronic application systems. HUMAN RESOURCES	Pending; 2019
2020	Update application process. HUMAN RESOURCES	Pending; 2020

Summary On track for 2019/2020 implementation, per the target dates.

STRATEGY 2 Ensure that the OSB recruitment process is inclusive and equitable.

ACTION 3.2.1 Assess the current OSB recruitment process.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a method for assessment. D&I	In progress; 2019
2019	Conduct the assessment and analyze data. D&I	Pending; 2019

Summary The D&I Department is continuing to work with HR on assessing best practices for recruitment. It is not expected that there will be a delay to the assessment and data analysis target measure.

ACTION 3.2.2 Identify areas for improvement and develop a plan for improvement.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2019	Develop a plan. HUMAN RESOURCES	Pending; 2019
2020	Implement the plan. HUMAN RESOURCES	Pending; 2020

Summary On track, per target dates.

BAR OPERATIONS SPHERE

STRATEGY 3 Increase the diversity of applicants for vacant positions at the OSB.

ACTION 3.3.1 Build relationships with external groups and organizations that are focused on diversity.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify external groups and organizations. D&I	Pending; 2019
2018	Develop a plan for building relationships with identified organizations that is appropriate to each organization. D&I	Pending; 2019
2019	Implement the plan. D&I 2018	Pending; 2020

Summary Work to identify external groups and organizations will proceed in 2019.

ACTION 3.3.2 Expand outreach to a more diverse pool of potential applicants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Evaluate current outreach for job openings to identify gaps. HUMAN RESOURCES	Complete
2019	Identify potential resources for additional outreach and their job posting requirements and needs. HUMAN RESOURCES	Complete
2019	Incorporate new resources into current advertising plans. HUMAN RESOURCES	Complete

Summary Through a variety of resources, the HR Department's advertising plan was updated with additional job advertising partners. Resources included the D&I Department, colleagues, current advertising partners, and research. As a result, the advertising plan was updated and job announcement advertising was expanded. Though these target measures are complete, applicant outreach will be reviewed on an ongoing basis.

STRATEGY 4 Explore and use bias interrupters in the hiring process.

ACTION 3.4.1 Incorporate hiring committees into the hiring process.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Identify opportunities for use of hiring committees. HUMAN RESOURCES	Complete
2018	Investigate and experiment with alternative hiring models that incorporate hiring committees. HUMAN RESOURCES	Complete
2019	Develop training for hiring committee participants. HUMAN RESOURCES	Pending; 2019
2019	Identify staff interested in participating on hiring committees and provide training. HUMAN RESOURCES	Pending; 2019

Summary Hiring committees were used for four open positions in 2018. The process is being refined and altered after each hire to be efficient and effective.

BAR OPERATIONS SPHERE

ACTION 3.4.2 Create accountability for hiring process decisions.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Implement a step within the hiring process that requires decision makers to state a reason why they did not choose to take applicants to the next stage. HUMAN RESOURCES	Complete
2018	Provide training for managers and directors on bias interrupters. HUMAN RESOURCES	Pending; 2019

Summary Hiring committee members for recruitment in 2018 were required to state a reason why they chose not to take each applicant to the next stage. A template was created and attached to each resume, to be completed by each committee member. Committee members were also required to indicate on each template their decision, why the decision was made, and to complete, as much as possible, the checklist of job requirements.

Bias interrupter training will be scheduled after the cultural assessment survey (Bar Operations Sphere 2.1.1) is complete.

GOAL 4 Engage a diverse and inclusive group of contractors, suppliers, vendors, and consultants.

STRATEGY 1 Develop and implement a process for ensuring consideration of a diverse list of third-party vendors.

ACTION 4.1.1 Review the current processes used organization-wide for selecting contractors, suppliers, vendors, and consultants.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Review and document the process. FINANCE AND OPERATIONS	Complete

Summary A process, including a template for RFPs and a decision matrix which includes price, time to completion, quality, and Office of Minority, Women and Emerging Small Business (OMWESB) registration (or similar) as factors was created, and went live in October 2018. See also Bar Operations Sphere 4.1.2.

ACTION 4.1.2 Create and implement a policy or policies for contracting with third-party vendors that account for the various needs of the organization and consider a diverse vendor pool.

TARGET DATE	TARGET MEASURE	STATUS & NEW TARGET DATE
2018	Develop a diverse list of third-party vendors. FINANCE AND OPERATIONS	In progress; 2019
2019	Develop a policy. FINANCE AND OPERATIONS	Complete
2020	Implement the policy. FINANCE AND OPERATIONS	Complete

BAR OPERATIONS SPHERE

Summary Data on supplier diversity is not currently collected; however, a draft policy involving voluntary vendor self-identification is in place, which will allow us to draw on this data going forward.

A procedure that encourages consideration of a diverse vendor pool went live in October 2018.

DRAFT

OREGON STATE BAR

Policy and Governance Committee Agenda

Meeting Date: January 11, 2019
From: Loan Repayment Advisory Committee
Re: Changes to the LRAP Policies and Guidelines

Action Recommended

The Loan Repayment Advisory Committee recommends that the Policy and Governance Committee recommend to the Board of Governors a change in the LRAP Policies and Guidelines to allow more Oregon public defenders to participate in the OSB LRAP.

Background

The Loan Repayment Assistance Program (LRAP) is now in its 12th year of providing forgivable loans to lawyers pursuing careers in public service law. Through this program, lawyers working in public service may receive loans for up to \$7,500 per year for three years to aid them in repaying their educational debt. Each loan is forgiven at the end of the year, provided that the lawyer remains in public service. Currently, Section 2(B) of the Policies and Guidelines states that those eligible for the Program are attorneys practicing “with civil legal aid organizations, other private non-profit organizations providing direct legal representations of low-income individuals, as public defenders or as deputy district attorneys.” FAQs prepared by staff at the inception of the Program make clear that the phrase “public defenders” is narrowly interpreted.

Public Defense work in Oregon is overseen by the Oregon Office of Public Defense Services. Many counties have large organizations that have a contract with OPDS to provide criminal defense services in those counties. Examples are Multnomah Defenders, Intermountain Public Defender and Southern Oregon Public Defenders. These organizations are non-profits whose sole work is public defense work. Attorneys employed by these organizations who meet the other criteria may apply for an OSB LRAP loan. Some counties have private law firms whose primary work is public defense work, such as Crabtree and Rahmsdorff in Bend. Any attorney who is **employed by** one of these firms may also apply for an OSB LRAP loan, but those who **have a contract with** the firm may not. Most counties have public defender consortiums, which are groups of attorneys who have bonded together to contract with OPDS for public defense work. In addition, counties with non-profit organizations also have consortia for conflict work. Attorneys who are part of a consortium are not eligible to apply for an OSB LRAP. Finally, individual attorneys engage in public defender work as appointed by the Court. These attorneys are not eligible to apply for an OSB LRAP.

Approximately one-third of “public defenders” in Oregon work for one of the non-profit organizations that have a contract with OPDS. At least 50% of the “public defenders” in Oregon work in a way that makes them ineligible for the OSB LRAP. This is especially true in rural Oregon.

The current LRAP Policies and Guidelines have a disparate impact on rural Oregon communities that do not have large non-profit public defender organizations, and on the lawyers who practice there. Many of these lawyers make well below the \$65,000 cut-off, and, as they are not considered “in public service” under federal guidelines, they do not qualify for the ten-year federal loan forgiveness for which many other attorneys qualify.

Staff will need to amend the LRAP Application to allow for self-employed attorneys, and will need to review the applications of the private public defense attorneys with more scrutiny, as those attorneys will need to provide the OSB with their 1040 tax forms. Staff does not anticipate that this additional review will be onerous.

Finally, the P & G Committee should be aware that this new category of attorneys may not be able to claim that their debt forgiveness is a non-taxable event, as is the case for the attorneys already qualified. (Please note that the OSB does not provide any tax advice to the LRAP recipients, as is made clear to the participants). The OSB has examined whether this may require the OSB to provide these attorneys with a Form 1099. Staff currently does not believe it will be required to do so, but if it does, staff does not believe that this additional step will be onerous.

Proposed changes to the Policies and Guidelines are attached hereto.

Loan Repayment Assistance Program

Policies and Guidelines

**Adopted by the Board of Governors
November 18, 2006**

Revised February 13, 2015

The mission of the Oregon State Bar's Loan Repayment Assistance Program is to attract and retain public service lawyers by helping them pay their educational debt.

Statement of Purpose

The Oregon State Bar recognizes that substantial educational debt can create a financial barrier which prevents lawyers from pursuing or continuing careers in public service law. The Oregon State Bar's program of loan repayment assistance is intended to reduce that barrier for these economically-disadvantaged lawyers, thereby making public service employment more feasible.

Oregon Public Records Act Notice

The Oregon State Bar is subject to the Oregon Public Records Act, ORS Chapter 192. The bar has an obligation to disclose its records when requested, unless an exemption applies. The bar agrees the personal financial information you provide in response to the LRAP Application is submitted in confidence and will only be disclosed under the Act if required by law.

Section 1 – Administrative Partners

(A) Advisory Committee

(i) Membership

An Advisory Committee will be appointed by the Oregon State Bar (OSB) Board of Governors, and will be comprised of nine members who meet the following criteria:

- OSB President, or member of the Board of Governors designated by the President
- Chair of the OSB New Lawyers Division, or designee
- Representative from an Oregon law school, preferably with financial aid expertise
- Representative from the indigent criminal defense area of public service law
- Representative from a county district attorney's office
- Representative from the civil area of public service law
- Three at-large members who are OSB members, represent geographical diversity, and have shown a commitment to public service law

(ii) Appointment and Administration

- OSB President and Chair of the OSB New Lawyers Division, or designees, will serve for a term of one year.
- Other Advisory Committee members will serve for a term of three years and may be reappointed for one additional term.
- Advisory Committee members will elect a Chair and such other officers as they determine are necessary from among Advisory Committee members. Officers shall serve a one-year term, subject to renewal.

- One-third of the initial appointments will be for one year, one-third for two years, and one-third for three years. The OSB Board of Governors will determine which of the initial positions is for which length.
- The OSB will designate a staff person to support the Advisory Committee's work.
- Current applicants for or recipients of LRAP loans may not serve on the Advisory Committee.

(iii) Advisory Committee Duties

- Select participants for the loan repayment assistance program (LRAP or the Program), and report the selections to the OSB.
- Report annually to the OSB Governance and Strategic Planning Committee on the Program's status.
- Amend and set policy guidelines as needed for the Program.
- Raise funds to achieve programmatic objectives.
- Adopt procedures to avoid conflicts of interest.
- Make clear program rules to avoid grievances.

(B) Oregon State Bar

- Support the Advisory Committee's work through provision of a part-time staff person
- Receive and invest member dues designated for LRAP
- Administer other funds raised by the Advisory Committee
- Receive and review LRAP applications for completeness and eligibility, and forward completed applications from eligible applicants to the Advisory Committee
- Disburse LRAP money to participants selected by the Advisory Committee.
- Receive and review annual certifications of continuing LRAP eligibility.
- Provide marketing and advertising services for the Program, including an LRAP website which includes frequently asked questions with responses.
- Coordinate response to grievances submitted by Program participants.
- Handle inquiries about LRAP through the staff person or, if necessary, forward such inquiries to the Advisory Committee.

Section 2 – Requirements for Program Participation

(A) Application and Other Program Procedures

- Applicants must fully complete the Program application, submit annual certifications and follow other Program procedures.
- Previous recipients are eligible to reapply.

(B) Qualifying Employment

- Employment must be within the State of Oregon.
- Qualifying employment includes employment as a practicing attorney with civil legal aid organizations, other private non-profit organizations providing direct legal representation of low-income individuals, as public defenders, as private public defense contractors, or as deputy district attorneys.

- Judicial clerks and attorneys appointed on a case-by-case basis are not eligible.
- Thirty-five hours or more per week will be considered full-time employment; hours worked per week less than 35 will be considered part-time.
- Part-time employees are eligible to apply for the Program; however repayment assistance may be prorated at the discretion of the Advisory Committee, based on FTE.

(C) *Graduation/License/Residency Requirements*

- Program applicants must be licensed to practice in Oregon.
- Program participation is not limited to graduates of Oregon law schools. Graduates of any law school may apply.
- Program participation is not limited to recent law school graduates. Any person meeting Program requirements, as outlined herein, may apply.
- Program participation is not limited to Oregon residents, provided the applicant works in Oregon and meets other Program requirements.

(D) *Salary Income Cap for Initial Applicants*

Applicants with ~~salaries~~ salaries of more than \$65,000 or net income from private, for-profit public defense work of more ~~greater~~ than \$ 65,000 at the time of application will be ineligible for Program participation.

- The Advisory Committee may annually adjust the maximum eligible ~~salarynet~~ income.
- As more fully described in Section 3(B)(ii), Program participants may retain eligibility despite an increase in salary above the cap set for initial participation.
- The maximum eligible salary may be pro-rated for part-time employees, based on FTE.

(E) *Eligible Loans*

All graduate and undergraduate educational debt in the applicant's name will be eligible for repayment assistance.

- Applicants with eligible debt at the time of initial application less than \$35,000 will be ineligible for Program participation.
- If debt in the applicant's name and in others' names is consolidated, the applicant must provide evidence as to amount in the applicant's name prior to consolidation.
- Loan consolidation or extension of repayment period is not required.
- Program participants who are in default on their student loans will be ineligible to continue participating in the Program (see 4(C)(v) below for more details).

Section 3 – Description of Benefit to Program Participants

(A) *Nature of Benefit*

The Program will make a forgivable loan (LRAP loan) to Program participants.

(i) Amount and Length of Benefit

- LRAP loans will not exceed \$ 7,500 per year per Program participant for a maximum of three consecutive years. LRAP loans cannot exceed the annual student loan payments of the participant.
- The Advisory Committee reserves discretion to adjust the amount of the LRAP loan and/or length of participation based on changes in the availability of program funding.
- LRAP loans will be disbursed in two equal payments per year. .

(ii) Interest on LRAP Loans

Interest will accrue from the date the LRAP loan is disbursed, at the rate per annum of Prime, as published by the Wall Street Journal as of April 15 of the year in which the loan is awarded, not to exceed nine percent.

(iii) Federal Income Tax Liability

Each Program participant is responsible for any tax liability the Program participant may incur, and neither the Advisory Committee nor the OSB can give any Program participant legal advice as to whether a forgiven LRAP loan must be treated as taxable income. Program participants are advised to consult a tax advisor about the potential income tax implications of LRAP loans. However, the intent of the Program is for LRAP loans which are forgiven to be exempt from income tax liability.

(B) Forgiveness and Repayment of LRAP Loans

The Program annually will forgive one year of loans as of April 15 every year if the Participant has been in qualifying employment the prior year and has paid at least the amount of his/her LRAP loan on his/her student loans. Only a complete year (12 months from April 15, the due date of application) of qualifying employment counts toward LRAP loan forgiveness.

(i) Loss of Eligibility Where Repayment Is Required

Program participants who become ineligible for Program participation because they leave qualifying employment must repay LRAP loans, including interest, for any amounts not previously forgiven.

- The repayment period will be equal to the number of months during which the Program participant participated in the Program (including up to three months of approved leave), or 12 months, whichever is longer.
- The collection method for LRAP loans not repaid on schedule will be left to the discretion of the Oregon State Bar.
- Participants shall notify the Program within 30 days of leaving qualifying employment.

(ii) Loss of Eligibility Where Repayment Is Not Required

Program participants who become ineligible for continued Program participation due to an increase in income from other than qualifying employment (see Section 4(C)(iv)) or because their student loans are in default (see Section 4(C)(v)) will not receive any additional LRAP loans. Such Program participants will remain eligible to receive

forgiveness of LRAP loans already disbursed so long as the Program participant remains in qualifying employment and submits an employer certification pursuant to Section 4(C)(iii).

(iii) Exception to Repayment Requirement

A Program participant may apply to the Advisory Committee for a waiver of the repayment requirement if (s)he has accepted public interest employment in another state, or for other exceptional circumstances. Such Program participants will not receive any additional LRAP loans.

(C) Leaves of Absence

Each Program participant will be eligible to continue to receive benefits during any period of leave approved by the Program participant's employer. If any such approved leave period extends for more than three months, the amount of time the Program participant must remain in qualifying employment before an LRAP Loan is forgiven is extended by the length of the leave in excess of three months. The leave time exceeding three months is added to the end of the year in which the leave is taken and thereafter, the starting date of the new year is reset based upon the new ending date of the year in which the extended leave is taken until the three year LRAP Loan period concludes.

Section 4 – Program Procedures

(A) Application and Disbursement Procedure

- Applications submitted to the Advisory Committee must be postmarked or delivered to the Oregon State Bar office by April 15 of each year.
 - Applicants must be members of the OSB already engaged in qualifying employment by the application deadline.
 - Applicants may not commence the application process prior to receiving bar exam results.
 - Unsuccessful applicants will get a standard letter drafted by the Advisory Committee and may reapply in future years as long as they meet the qualifications described in Section 2.
- Applicants will be notified by June 1 of each year as to whether or not they have been selected for Program participation in accordance with the selection criteria set forth in Section 4(B).
- Those applicants selected as Program participants will receive a promissory note for the first year of LRAP loans along with their notification of selection. The executed promissory note must be returned to the Advisory Committee by June 15.
- Initial disbursement of LRAP loans will be made by July 1 provided the executed promissory note has been returned.
- In conjunction with the annual certification procedure set forth in Section 4(C), persons who remain eligible Program participants will be sent a new promissory note, covering the LRAP loan in the upcoming year by June 1, which must be executed and returned by June 15.
- Ongoing disbursement of loans to persons who remain Program participants will be made on or about July 1 of each year.

(B) Program Participant Selection

(i) Factors Considered

- Meeting the salary, debt and employment eligibility for the Program does not automatically entitle an applicant to receive a LRAP loan. If the Advisory Committee needs to select among applicants meeting the salary, debt and employment eligibility criteria, it may take into account the following factors:
 - Demonstrated commitment to public service;
 - Financial need;
 - Educational debt, monthly payment to income ratio, and/or forgivability of debt;
 - Extraordinary personal expenses;
 - Type and location of work;
 - Assistance from other loan repayment assistance programs;
- The Advisory Committee reserves the right to accord each factor a different weight, and to make a selection among otherwise equally qualified applicants.
- If there are more eligible applicants than potential Program participants for a given year, the Advisory Committee will keep the materials submitted by other applicants for a period of six months and may automatically reconsider the applicant pool if an individual selected to receive an LRAP loan does not participate in the Program.

(ii) Other Factors Considered Related to Applicant's Income

The following factors, in addition to the applicant's salary from qualifying employment, may be considered in determining applicant's income:

- Earnings and other income as shown on applicant's most recent tax return
- Income-producing assets;
- Medical expenses;
- Child care expenses;
- Child support; and
- Other appropriate financial information.

(C) Annual Certification of Program Participant's Eligibility

(i) Annual Certifications Required

Program participants and their employers will be required to provide annual certifications to the OSB by April 15 that the participant remains qualified for continued Program participation. Annual certifications forms will be provided by the Program. The OSB will verify that the Program participants remain eligible to receive LRAP loans and will obtain new executed promissory notes by June 15 prior to disbursing funds each July 1.

(ii) Program Participant Annual Certifications - Contents

The annual certifications submitted by Program participants will include:

- Evidence that payments have been made on student's loans in at least the amount of the LRAP loan for the prior year and evidence that student loan is not in default.
- Completed renewal application demonstrating continued program eligibility

(iii) Employer Certification - Contents

The annual certifications submitted by employers will include:

- Evidence that the Program participant remains in qualifying employment; and
- Evidence of the Program participant's current salary and, if available, salary for the upcoming year.

(iv) Effect of Increase in Salary and Income and Changes in Circumstances

Program participants remain eligible for the Program for three years despite increases in salary provided that they remain in qualifying employment with the same employer and are not in default on their student loans. If a Program participant's financial condition changes for other reasons, the Advisory Committee may make a case-by-case determination whether the Program participant may receive any further LRAP loans. Even if no further LRAP loans are received, this increase in income will not affect the LRAP loan forgiveness schedule so long as the Program participant remains in qualifying employment and submits an employer certification pursuant to Section 4(C)(iii).

(v) Effect of Default on Student Loans

Program participants who are in default on their student loans will be ineligible to receive further LRAP Loans, but may seek to have LRAP loans forgiven in accordance with the loan forgiveness schedule if they remain in qualifying employment and submit an employer certification pursuant to Section 4(C)(iii).

(vi) Voluntary Withdrawal from Program

A Program participant may voluntarily forgo future LRAP loans despite retaining eligibility (e.g., the Program participant remains in qualifying employment and receives a substantial increase in salary). In such a case, LRAP loans already received will be forgiven in accordance with the loan forgiveness schedule so long as the Program participant remains in qualifying employment and submits an employer certification as otherwise required under Section 4(C)(iii).

(D) Dispute/Grievance Resolution

- Grievance procedure applies only to Program participants, not applicants.
- Program participants have 30 days to contest a determination in writing.
- The Advisory Committee has 60 days to issue a decision.
- A Program participant may appeal the Advisory Committee's decision by making a request in writing to Board of Governors within 30 days of the Advisory Committee's decision. The decision of the Board is final.

OREGON STATE BAR

Policy & Governance Committee Agenda

Meeting Date: February 21, 2019

From: Helen Hierschbiel, Chief Executive Officer

Kay Pulju, Director of Communications and Public Services

Eric McClendon, Referral and Information Services Manager

Re: Lawyer Referral Service Revenue

Action Recommended

Create a policy for use of revenue generated by the Lawyer Referral Service (LRS) that either:

1. Continues using LRS revenue to balance the OSB operating budget; or
2. Returns revenue to the LRS panelists; or
3. Reinvests LRS revenue into programs that provide access to justice with the potential to increase LRS revenue.

Background

The Referral and Information Services Department (RIS) offers a number of programs designed to increase the public's ability to access the justice system, as well as offer opportunities to bar members who serve on its panels. Perhaps the most widely known RIS program is the Lawyer Referral Service (LRS), which is the oldest and largest program in RIS and the only one that produces revenue. The basic LRS operating systems (e.g., staffed call center, computer hardware and software) support the other RIS programs. Approximately 550 OSB members participate as LRS panel attorneys.

In addition to the LRS, the RIS Department includes the following programs that help both the people and the lawyers of Oregon:

- Referrals to other resources (e.g. community services and pro-bono legal services)
- Modest Means Program (MMP) (reduced-fee legal services for low and moderate-income clients in the areas of family law, landlord-tenant disputes, foreclosure, and criminal defense)
- Problem Solvers (pro bono program offering legal advice for youth ages 13-17)
- Military Assistance Panel (MAP) (connects military personnel and their families in Oregon with pro bono legal assistance)
- Lawyer to Lawyer (connects Oregon lawyers working in unfamiliar practice areas with experienced lawyers willing to offer informal advice at no charge)

The RIS Department is funded entirely by fees remitted to the bar from LRS panel members. Although it is often assumed otherwise, public information services provided by the bar (e.g. videos and print/on-line publications) are not part of the RIS Department or its budget.

Option 1: Maintain the status quo and continue using LRS revenue to balance the overall OSB budget.

The Referral and Information Services Department recorded a positive net revenue in 2018 of \$160K, with \$930K in total revenue. The net revenue generated by the LRS has helped the bar to maintain a balanced budget without increasing member fees. Even with the revenue performance of RIS, overall revenue in 2018 finished the year only \$2K greater than 2017. With this in mind, one option would be to continue using LRS revenue to balance the overall budget.

If the Board decides to divert funds away from RIS toward new programs or initiatives or to lower the cost of participation by panelists, the Board will need to raise member fees, establish a solid backfill of other new sources of revenue, or identify additional cost savings, in order to avoid the risk of putting the bar in a negative position relative to the overall budget.

In addition, the Board should be mindful that past performance does not guarantee future results. RIS net revenue in 2018 was \$25K less than in 2017. And, revenue during the last three months of 2018 averaged only \$61K per month, as compared with the first 9 months, during which the average was \$82K per month. In short, revenue performance of LRS is subject to random variations and market inflections just like any other business. Maintaining the status quo arguably provides the Board greater flexibility to adjust to such fluctuations without significant impact on reserves, bar programs, or member fees.

Option 2: Reduce the cost to attorneys for their participation in LRS and Modest Means panels

LRS panelists currently remit 12% of fees earned and collected on LRS-referred cases. The BOG's initial goal for the program was for RIS to become financially self-sufficient – not to create an excess profit. Additionally, these lawyers are mostly sole practitioners (69%) and relatively young (62% are under age 50), two demographic groups that may have financial challenges. If that is a key concern for the board, there are several ways to return LRS profits back to panelist attorneys.

- The percentage amount of remittance fees could be lowered from 12% to 10%.
- A trigger amount could be implemented, which would lower remittance fees less than adjusting the percentage fee while also reducing administrative costs. The bar's Public Service Advisory Committee (PSAC) has proposed this concept but the board has not yet discussed it in detail.
- Offer free LRS registration for lawyers who also participate in the Modest Means program.

- Offer LRS panelists who participate in the Modest Means program vouchers for OSB CLE seminars, a financial benefit for panelists that would effectively shift revenue from LRS to the CLE Seminars Department.

Option 3: Reinvest LRS revenue into access to justice programs that also have the potential to increase LRS revenue.

At the December 2018 meeting of the Public Service Advisory Committee (PSAC), bar staff updated the committee on the board's review of the LRS program. The PSAC's consensus recommendation is that, as a matter of general policy, LRS revenue should be directed towards expanding access to justice in ways that also have the potential to increase referrals to LRS. Moreover, the committee preferred that option to the possibility of lowering percentage remittance fees.

Below are several options that are either being implemented or considered by bar staff in that spirit.

A. Continue Current Marketing and Modest Means Expansion Initiatives

As stated above, LRS revenue currently funds the operation of the entire RIS department, which includes the Modest Means Program, the Military Assistance Panel, Problem Solvers, and Lawyer-to-Lawyer Programs. While the original goal of the percentage fee model was for RIS to be self-sufficient, the board at the time also contemplated using any net revenue to expand the Modest Means Program and marketing for RIS programs. With this in mind, in 2014 a "Disability Benefits and Injured Workers" panel was added to the Modest Means Program and a marketing line-item was added to the RIS annual budget, which is currently set at \$15,000.

In recent years, the bar has engaged in marketing campaigns through Google Adwords, and made regular postings on Craig's List. The Google ad campaign has been coordinated with the Communications Department "Legal Q&A" video campaign. Over the past two years, Communications has created and posted over seventy short videos that address distinct issues in a wide variety of case types. Whenever a new subject is posted on the bar's public webpage, an analogous ad campaign is initiated. For example, if a Legal Q&A video addresses estate planning issues, the Google ad campaign for estate planning is contemporaneously activated. These marketing efforts resulted in a 19% increase in online referral requests in 2018.

Given the success of the video campaign, bar staff has begun preliminary discussions around the creation of self-help videos that would instruct pro-se litigants how to fill out their family law forms. These videos would be created and hosted on the bar's public website. A benefit of these videos would be the likelihood that pro se litigants would realize how complicated the law is and decide to hire an attorney. As the videos will be hosted on the OSB website, there is a strong chance of these individuals utilizing the LRS to find an attorney.

There is a financial advantage to continuing these ongoing efforts and refraining from creating additional programs. As "Option 1" states above, LRS revenue does vary on an annual basis, and there is always the possibility that revenue could decrease in future years. Without a

stable source of funding, launching new, multi-year initiatives could leave the bar on shaky financial grounds. By continuing existing initiatives, bar staff can be flexible in either expanding or reducing marketing expenditures based on current revenues. The downside to solely continuing current efforts is a reduced chance of the bar creating new, innovative programs to assist the public.

B. Utilize LRS Revenue to Launch a Landlord Tenant Law Application

One proposal being seriously considered is the creation of a landlord tenant law application (“app”) that allows pro se litigants to determine if they have a potential defense to an eviction. This app would be free to the public and hosted on the bar’s public website. Bar staff has already begun preliminary research into the development of this app, and a Portland-based law firm has offered to provide free programming. Potential costs to the bar would include hiring an attorney to review the initial programming for legal accuracy and continuing to update the app as the laws change. Similar to the advantages of hosting family law videos on the OSB site, there is a likelihood pro se litigants will utilize LRS to find an attorney should they decide to hire one.

C. Utilize LRS Revenue to Create a Remote Family Law Facilitation Program

The State Family Law Advisory Committee (SFLAC) has a Futures Committee that has been studying the possibility of creating a program to provide centralized remote access to family law facilitation services. Bar staff has been attending the Futures Committee meetings and providing information about possible avenues for collaboration between the OSB and the courts on this type of program. The SFLAC Futures Committee is recommending that a remote access program be initiated through a partnership between the OSB and the OJD (See attached report for more information). However, the BOG could decide to initiate a remote facilitator program independent from the OJD.

Creating a remote family law facilitation program at the bar would benefit the bar, the public and the courts. More than any of the proposals outlined above, a remote facilitation program based out of the RIS department will draw increased traffic to LRS phones and online referral pages. This is due to the fact that a large amount of “facilitation” calls are actually triaged to different programs and resources. Based on conversations with directors of remote facilitation programs across the country, it is fair to assume that 30%-40% of calls are either referred to attorneys or community resources. These diverted calls could simply be transferred to the LRS phone tree for further handling. Additionally, the remote facilitation program would rely heavily on live webcasts. These webcasts would be hosted on the existing bar webcast platform, and would be available for both live viewing and archived on the bar’s website. This would lead to a massive increase in web traffic to the bar’s website, including the online referral page.

The benefit to the public would be tangible as well. Once a script is created on a given subject, family law facilitators around the state would rotate on presenting the given topic of the day. Northern California currently utilizes this model quite successfully and hosts daily webcasts that are attended remotely by dozens of pro se litigants at a time. This is a highly

convenient method of facilitation as the public can stream the webcast from their home, law library, etc. The webcasts are also highly interactive. Viewers can ask questions in real time and have them answered by the facilitator-host as they fill out forms.

Remote facilitation also comes with an advantage to Oregon's court system. It is well documented that 80% of family law litigants are pro se. Courts are spending massive amounts of time and resources handling such a large amount of these "self-navigators." By diverting self-navigators to a webcast or online video, the bar will relieve pressure on in-person facilitators located at county courthouses.

The downside to remote facilitation comes in the form of personnel costs. The bar would need to recruit, train and compensate a facilitator, a 1.0 FTE position in the 8-15 pay range. This would be a direct program cost of between \$45,000 - \$70,000 per year. However, some if not all these personnel costs may be recovered through the increased LRS phone and web traffic to the RIS department.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019
From: John Bachofner, Board Development Committee Chair
Re: Appointment recommendations to various bar and bar-affiliated groups

Action Recommended

Approve the Board Development Committee's recommendations for member and non-member appointments to the following groups.

Background

During the Board Development Committee's meeting on January 11 the committee selected the following members for appointment consideration.

Public Service Advisory Committee

The Public Service Advisory Committee advises the BOG and OSB staff on public service priorities and issues to assist in achieving the bar's public outreach and education goals. The BDC recommends **Jovanna Patrick** (111339) to chair the committee in 2019. **Andrew Teitelman** (075484), **Carrie Wineland** (085123), and **SreeVamshi Reddy** (140560) are recommended for appointment as members of the committee for terms ending December 31, 2019.

During the Board Development Committee's meeting on February 21 the committee selected the following members for appointment consideration.

Oregon Law Center and Legal Aid Services of Oregon Board

The OSB Board of Governors has authority to make appointments to these two governing boards. The boards consist of the same members, and two member appointments are needed. **Luis Garcia** (093627) and **Mark Comstock** (811930) are recommended for a three-year appointment.

The Board Development Committee met earlier today and selected the following members for appointment consideration.

Council on Court Procedures Appointment

Based on authority provided by ORS 1.730(1)(d), the BOG is tasked with appointing members of the Council on Court Procedures. The Board Development Committee recommends the appointment of **Scott O'Donnell** (933849) to fill a partial term.

Commission on Judicial Fitness and Disability Appointment

The Commission reviews complaints about Oregon state judges and justices of the peace and investigates when the alleged conduct might violate the state's Code of Judicial Conduct or Article VII (amended), Section 8 of the state constitution. The Commission also investigates complaints referred by

the Chief Justice that a judge has a disability which significantly interferes with the judge's job performance. The Board Development Committee recommends the appointment of **Melanie Kebler** (083798) to serve as a Commission member.

Advisory Committee on Diversity and Inclusion

Members of the Advisory Committee on Diversity and Inclusion score applications for the public honors, clerkship stipend, scholarship, and bar exam grant programs. The committee also provides vision, advises the D&I staff, and is a strong program advocate. The committee is in need of two new members and **Ashley Carter** (165397) and **Javier Spyker** (141172) are recommended for appointment with terms expiring December 31, 2021.

Loan Repayment Assistance Committee

Members of the Loan Repayment Assistance Committee select LRAP participants, amend and set program policy guidelines. As set forth in the program guidelines, several of the committee seats are designated for members with particular practice area or type. The committee is in need of a DA representative and **Jeffrey Auxier** (062634) is recommended. **Marti McCausland** (050260) is recommended for the law school representative position. If appointed, both would serve terms through December 31, 2021.

Quality of Life Committee

Quality of Life Committee members educate lawyers and firms about the benefits of balancing personal life and career obligations. Two lawyer and one public member are needed to fill vacant seats. **Amrit Mann** (000673) and **C. Atha Mansoory** (091747) are recommended for the lawyer positions. Carolyn Ellis, a psychologist, is recommended as a public member. If appointed, all would serve terms through December 31, 2021.



OREGON STATE BAR Board of Governors Agenda

Meeting Date: February 21-22, 2019
Memo Date: February 4, 2019
From: Carol J. Bernick, CEO
Re: Combing PLF Board Committees: Finance and Investments

Action Recommended

Approval of revision to PLF Policy 2.300 as amended.

Background

The PLF Board has had separate Finance and Investments Committees for a number of years. There is frequently a fair amount of overlap in committee membership.

Over the last few years, the Finance and Investments Committees have been combining their meetings. Because our budget and financial performance is driven so significantly by our investment results, the topics typically covered in each meeting bear on the charges of both committees. Therefore, the PLF Board voted to combine the committees. This change requires an amendment to the Bylaws. We recommend the following change:

PLF Policy 2.300

(5) Finance and Investments: Reviews the PLF's annual budget and recommends proposed budget to the Board of Directors. Reviews actuarial reports and estimates of the PLF's estimated claim liabilities and makes recommendations to the Board of Directors regarding financial presentation of claim liabilities. Monitors Fund investments and presents recommendations for changes in investment policy to the board of Directors. Makes recommendations to the Board of Directors regarding the selection of the independent financial auditor; reviews each financial audit report and recommends any actions based on those reports. The Finance Committee reviews each financial audit report of the PLF and makes recommendations to the Board of Directors concerning audit results.

~~(6) Investments: Monitors Fund investments and presents recommendations for changes in investment policy to the Board of Directors.~~

CJB/clh

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019

Memo Date: February 8, 2019

From: Joel Sturm, Oregon New Lawyers Division Chair

Re: ONLD Report

The ONLD Executive Committee met in Cannon Beach on Saturday, January 12 for the annual retreat and January Executive Committee meeting. We were joined by OSB BOG Liaison John Grant.

After spending 2018 in an intense review of the ONLD's mission, goals, and programming, the 2019 retreat focused on: (1) discussing the year-long plans for each of the four, new Committees; (2) how best to serve the ONLD members in each Region; and (3) generally discussing the needs of new lawyers in Oregon.

The four new Committees have the following goals/focus for 2019:

CLE will focus on ensuring that at least one low-cost CLE is held in each Region, and will partner with the MBA and various sections to provide CLEs pertinent to new lawyers in the Portland Metro area. The Committee will host a Super Saturday CLE, giving new lawyers the opportunity to be exposed to a variety of practice areas appropriate for new lawyers. It will partner with the PLF on Learning the Ropes.

Student Outreach will work with the three law schools on networking and other opportunities for law students, will be involved with the May/October swearing-in ceremonies, will host a Classroom to Courtroom event with the Oregon Court of Appeals, and is looking to reach out for similar programs beyond the Portland Metro area.

Access to Justice will be moving beyond the scope of the two merged committees it represents. The intention of this Committee is to partner with legal services providers on volunteer recruitment among new lawyers. This committee will also work on a regional rural summit.

Membership will continue its work of hosting partnered, monthly networking events in the tri-county area, and is partnering with the CLE Committee for the CLE/networking events that will happen in each Region.

BOG liaison John Grant informed the Executive Committee about the current litigation against the Bar, and about the possibility of recalibrating the fee structure at the Bar.

The Chair appointed liaisons to the following Committees: LRAP, Pro Bono, ACDI, MCLE, Quality of Life, Public Service and Legal Services. An appointment to the Solo and Small Firm Section Executive Committee is outstanding.

The Executive Committee met again on February 2 in Salem. It received an update on the Wellness Summit from member Kelsey Herman who served on the Wellness Summit Planning Committee. The Executive Committee voiced its support for providing an Attorney Wellness CLE throughout the state as it travels.

Networking and/or CLE events held so far in 2018 include:

- Networking@Nite event on January 30, co-hosted with the Federal Bar Association, approximately 45 attendees
- University of Oregon 1L mock interviews, followed by a networking event on January 25, approximately 50 attendees
- Salem Attorney Wellness CLE/Networking on February 1, approximately 25 attendees
- The ONLD will be partnering with the Oregon Hispanic Bar for a Networking@Nite event on February 27

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: February 22, 2019
Memo Date: February 8, 2019
From: Amber Hollister, General Counsel
Dawn M. Evans, Disciplinary Counsel
Re: Proposed Amendments to Bar Rules of Procedure

Introduction

After a year in operation under amendments to the Bar Rules of Procedure, a set of amendments are being proposed. This set of amendments includes the following categories of changes: (1) enhancements to the role, jurisdiction and functioning of the Adjudicator; (2) clarifications pertaining to investigations and formal proceedings; (3) modifications to the rules and forms pertaining to Form A and Form B resignations; and (4) housekeeping and error corrections. A table identifying all of the changes numerically by rule number and providing a brief explanation is attached.

The Board of Governors is being asked to recommend to the Oregon Supreme Court that these amendments be adopted.

I. Changes Pertaining to the Adjudicator

Appointment of substitute Adjudicator as needed

There is no provision for the appointment of a substitute for the Adjudicator based upon a general unavailability (which could be the result of a planned vacation or a sudden illness or injury). A new paragraph (14) has been added to BR 2.4(e) that permits the General Counsel to request in writing a regional chairperson to perform the Adjudicator's responsibilities when the Adjudicator is unavailable. "Unavailable" is defined as a planned leave of more than 14 days or unavailability due to death or then existing physical or mental illness or infirmity. The authority granted is terminated upon order of the Adjudicator. A new provision has been added within the duties of the regional chairperson that mirrors the new paragraph (14), empowering the regional chairperson to act as the Adjudicator upon written request of the General Counsel. [BR 1.1(a); BR 2.4(e)(14); BR 2.4(f)(4)]

Handling involuntary inactive proceedings upon request of the Court

The rules currently assign to the Adjudicator the handling of all types of special proceedings except those seeking involuntary inactive status of a lawyer, jurisdiction of which is retained by the Court. The addition of a new paragraph (i) to 3.2 and the addition of a new paragraph (13) to BR 2.4(e) provide an option for the court to delegate its duties in those proceedings to the Adjudicator [Note: if the Court would prefer that those types of cases be handled wholesale by

the Adjudicator, more revisions would be necessary to substitute “Adjudicator” for “court” and to omit references to the State Court Administrator.] [BR 2.4(e)(13); BR 3.2(i)]

Handling pre-filing issues

Language has been added to clarify that the Adjudicator is to rule on questions of procedure and discovery that may arise prior to the filing of a formal complaint. [BR 2.4(e)(9)]

Eliminating a cut-off date for the holding of prehearing conferences by the Adjudicator

The current rule requires the scheduling of prehearing conferences no later than 56 days prior to the date of the disciplinary hearing. This language is deleted, permitting the Adjudicator to hold hearings right up to the hearing. [BR 4.7(a)]

II. Clarifications

Client Assistance Office Dismissal

A complainant may request General Counsel review of a Client Assistance Office dismissal of an inquiry. The purpose of this change to make clear that a General Counsel affirmation may be summary in nature. Of the approximately 2,000 bar complaints filed per year, approximately 300 decisions are appealed to General Counsel. Client Assistance Office dismissal letters are specific and detailed. In instances where General Counsel agrees with the reasoning and result of the Client Assistance Office decision, it is inefficient to draft a second opinion that repeats the Client Assistance Office’s reasoning and decision. [BR 2.5(c)]

Answering an amended petition

When a formal complaint is amended, the current rule requires the Adjudicator to determine the deadline for filing an answer to an amended complaint and for completing discovery. Proposed language would set the answer date at within 14 days of service and permit the respondent to request, for good cause shown, additional time to gather evidence. The reason for adding the “for good cause shown” is that, if the amended complaint is filed early enough, there would be no necessity for extending an existing discovery cutoff. [BR 4.4(b)(1)]

Subpoenas during investigation of complaints

Disciplinary Counsel has the ability to issue subpoenas during investigation of complaints, but the rule is silent about how to enforce subpoenas. New language clarifies that enforcement can be sought with a circuit court, which will determine what sanction, if any, is imposed for noncompliance. [BR 2.2(b)(2)]

Broadening the ability to use informal reinstatement

New language would permit members suspended solely for several categories of administrative suspension to seek reinstatement to inactive or retired status through the informal reinstatement process. Presently, members must seek reinstatement from administrative suspension to active status, no matter whether they plan to practice law. [BR 8.2(a)(6); BR 8.2(a)(7)]

Narrowing the ability to use informal reinstatement

Members who would otherwise be qualified to use informal reinstatement (BR 8.2) would have to reinstate through the formal reinstatement process if, during a period of suspension, inactive or retired status, the member has been convicted of a crime that would subject them to discipline under BR 3.4 (dealing with convicted attorneys). The current rule only identifies resigned lawyers as being shifted from informal to formal reinstatement under those circumstances (and, because lawyers who resign by a Form B resignation at any time after December 31, 1995, *cannot* reinstate, the existing language referencing “resignation[s]” would pertain to Form A resignations prior to January 1, 2020, once all of these amendments are in place). [BR 8.2(d)(1)]

Making fees uniform in reinstatement cases

Language governing fees upon reinstatement has made uniform the fee charged per year that the member was suspended or resigned. The current rule charges \$100 a year for informal reinstatement applicants and \$50 a year for formal reinstatement applicants. Going forward, members seeking reinstatement under either rule will pay \$100 per year. [BR 8.6(a)]

III. Form A and Form B Resignations

Narrowing the circumstances under which a Form A resignation can be used

Changes would clarify that a lawyer who is suspended, disbarred, or on probation pursuant to BR 6.1 or BR 6.2, as well as lawyers who were charged in any jurisdiction with an offense that, upon conviction, would subject them to discipline under BR 3.4 (pertaining to convicted attorneys) would be ineligible to resign Form A. [BR 9.1]

Modifying the effect of a Form A resignation

As currently written, Form A resignations are essentially treated as periods of voluntary inactive suspension, with the ability to reinstate either informally (pursuant to BR 8.2) or formally (pursuant to BR 8.1), depending upon how long ago the resignation was accepted. Proposed changes would mean that the effect of all Form A resignations beginning January 1, 2020, would be to drop the person from the membership rolls and require a new bar application process to seek membership. A new rule makes clear that members who resign Form A after December 31, 2019, are ineligible to seek reinstatement but may seek admission under ORS 9.220 or any basis under the Rules for Admission. The intended effect would be for persons who do not intend a permanent departure to elect inactive status instead. Members who resign Form A on or before December 31, 2019, will remain able to seek reinstatement. This date anticipates an effective date of the rule changes several months earlier, permitting member education about the changes in Form A resignations and an opportunity for those wishing to avail themselves of the reinstatement benefits of the current rule to do so for a period of time before the change goes into effect. [BR 8.1(a)(1); BR 9.5]

Modifications of the language in Form A and Form B Resignation forms

Language has been added to clarify that there can be different treatment of client files and client records pertaining to active or current clients and those pertaining to inactive or former clients. The existing language requires identification of a lawyer who will act as custodian in taking possession of the resigning lawyer's client files and client records. Two alternative paragraphs have been added to address when the PLF has agreed to take possession of client files and client records pertaining to active or current clients and circumstances when a lawyer has no active client files to be addressed. In those instances where a custodian is identified, the signatory certifies having obtained the agreement of the lawyer who is identified as the person taking possession of the files to serve as custodian. In those instances where the PLF is identified, the signatory certifies having obtained the agreement of the PLF to take possession of the files. In all instances, the signatory acknowledges an obligation to comply with BR 9.3 and being subject to contempt for a failure to abide by BR 9.3 (which sets forth the requirements of a resigned lawyer). [BR 13.6; BR 13.7]

IV. Housekeeping and Error Corrections

Adding, deleting, or correcting a rule reference. [BR 1.1(a); BR 3.5(e); BR 4.4(a); BR 5.8(a); BR 10.1; BR 10.2; BR 12.4]

Correcting a reference to "Rule" instead of "BR" [BR 7.1(g); BR 10.1]

Correcting misspelled words. [BR 5.8(a)]

Eliminating a reference to the LPRC. [BR 7.1(a)]

Deleting an unnecessary subparagraph reference. [BR 13.9; BR 13.10]

Oregon State Bar
Special Open Session of the Board of Governors
March 8, 2019
Minutes

President Chris Costantino called the meeting to order at 3:39 p.m. on March 8, 2019. The meeting adjourned at 5:17 p.m. Members present from the Board of Governors were Chris Costantino and Colin Andries. Present by phone: Rob Gratchner, Julia Rice, Vanessa Nordyke, Tom Peachey, Liani Reeves, Traci Rossi, David Wade, John Grant, Bik-Na Han, Kamron Graham, Eric Foster, Jenny Cooke, and Whitney Boise. Not present were John Bachofner, Joseph Hesbrook, Eddie Medina, Michael Rondeau, and Katherine Denning. Staff present were Helen Hierschbiel, Amber Hollister, Susan Grabe, Keith Palevsky, Carol Bernick, and Cassandra Dyke.

1. Call to Order

The board accepted the agenda, as presented, by consensus. Ms. Costantino asked that the agenda be taken out of order to first address the Appellate Screening Committee recommendations.

2. Appellate Screening Committee

Mr. Peachey presented the committee's recommendations [**Exhibit A**]

Committee motion to approve Highly Qualified Candidates for Court of Appeals.

Ms. Rice moved and Mr. Foster seconded a motion to amend the committee motion to add Robert Koch to the Highly Qualified Candidates list. Ms. Reeves and Mr. Grant abstained. In favor were Ms. Rice, Mr. Foster, and Mr. Wade. Opposed were Mr. Peachey, Ms. Graham, Ms. Cooke, Ms. Rossi, Mr. Boise, Mr. Andries, and Ms. Han. Amendment failed

Committee motion to approve Highly Qualified Candidates for Court of Appeals. The board voted in favor of the motion. Ms. Rice was opposed. Ms. Reeves abstained.

3. Closed Sessions – see CLOSED Minutes

A. Executive Session (pursuant to ORS 192.660(1)(f) and (h)) - General Counsel Report

The board convened in executive session pursuant to ORS 192.660(1)(f) and (h)). The board reconvened in open session.

Motion: Mr. Grant moved, and Mr. Foster seconded, a motion to seek amendments to the Bar Act to clarify the bar's statutory mission and to add language to the Act to affirm the inherent authority of the Oregon Supreme Court to regulate the legal profession.

The board voted to approve the motion. Ms. Rossi was opposed. The motion passed.

Motion: Mr. Foster moved, and Ms. Rossi seconded, to proceed with proposed changes to the Bar Act as already moved and to also explore possible amendments to the Bar Act to provide that any vote by the House of Delegates on a proposed amendment to the Oregon Rules of Professional Conduct be reviewed by the Supreme Court.

The board voted to approve the motion. Mr. Peachey, Ms. Han, Ms. Graham, and Ms. Cooke were opposed. Motion passes.

Motion: Mr. Wade moved and Ms. Rice seconded a motion to seek additional Bar Act changes that would further align the bar with the Oregon Supreme Court. Mr. Andries called for quorum.

Ms. Costantino requested a roll call. The roll call demonstrated that quorum was no longer in effect. The motion failed for lack of a quorum.



March 8, 2019

Governor Kate Brown
State Capitol Building
900 Court St. NE, Suite 254
Salem, OR 97301

Board of Governors

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Christine R. Costantino, Portland

President-elect

Liani JH Reeves, Portland

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Dear Governor Brown:

The Oregon State Bar's Appellate Screening Committee has completed its review of the candidates who have applied for appointment to the Oregon Court of Appeals and who agreed to disclose their application materials to the OSB. Pursuant to OSB Bylaws, the Committee has conducted an in-depth review of each application and candidate, including in-person interviews of all candidates who opted to participate in the process.

The Committee's review process is intended to provide you with relevant, reliable, and descriptive information to help inform your appointment decision. As instructed by OSB Bylaws, our recommendation of candidates as "highly qualified" is based on "the statutory requirements of the position, as well as information obtained in the review process, and the following criteria: integrity, legal knowledge and ability, professional experience, cultural competency, judicial temperament, diligence, health, financial responsibility, and public service." A "highly qualified" recommendation is intended to be objective, and the Committee's decision not to identify any specific candidate as "highly qualified" should not be viewed as a finding that the person is unqualified. A "highly qualified" recommendation is intended to reflect the candidate's overall ability to serve on the court.

The Board of Governors is pleased that members from around the state, including a public member, serve on the Appellate Screening Committee. We also deeply appreciate the assistance and leadership of your counsel and your office during this process.

Pursuant to OSB Bylaw 2.703, the Oregon State Bar Board of Governors* has approved the following list of candidates deemed "highly qualified" for appointment to the Oregon Court of Appeals:

Bloom, Benjamin
Brown, Marc
Bunch, William
Hoesly, Cody
Kamins, Jackie
Mooney, Jodie
Norby, Susie
Pagán, Ramón
Perry, Kenneth
Quinn, Julene
Runkles-Pearson, PK

The Board of Governors appreciates that there were many qualified candidates for the positions and that the review process presented a challenging task. According to OSB Bylaw 2.700, the list of the "highly qualified" candidates will be posted on the OSB webpage. Also pursuant to OSB Bylaws, we will gladly respond to any requests from your office as to whether certain other candidates meet a "qualified" standard.

Sincerely,



Christine R. Costantino
OSB President



Thomas C. Peachey
OSB Board of Governors
Appellate Screening Committee Chair

cc: Misha Isaak, General Counsel, Office of the Governor

*Please note that BOG member Liani Reeves has abstained from all discussion and votes related to the review of judicial candidates.

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Judge recommends dismissing lawsuits challenging Oregon State Bar's mandatory dues

Updated Apr 2, 2019;

Posted Apr 2, 2019



Lehighvalleylive.com file photo

U.S. Magistrate Judge Jolie A. Russo cited the 1990 U.S. Supreme Court ruling in *Keller v. State Bar of California*, which permits the use of compulsory membership dues to fund speech that's related to regulating the legal profession and improving the quality of legal services.

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By [Maxine Bernstein | The Oregonian/OregonLive](#)

A federal magistrate judge has recommended dismissing two lawsuits that challenge the Oregon State Bar's membership fees that several attorneys contend have been used to support political speech without consent.

The Oregon Legislature enacted the State Bar Act in 1935, making it a public corporation and requiring lawyers who want to practice in the state to join and pay an annual fee. The bar administers exams for admission to practice law, examines a member's character and fitness, drafts and enforces rules of conduct and requires continuing education and training of lawyers.

Because the bar is an arm of the state, it's immune from suit under the 11th Amendment, U.S. Magistrate Judge Jolie A. Russo wrote in her [27-page findings](#).

The judge also cited the 1990 U.S. Supreme Court ruling in [Keller v. State Bar of California](#), which permits the use of compulsory membership dues to fund speech related to regulating the legal profession and improving the quality of legal services.

Plaintiffs had argued that the bar's publishing of a "Statement on White Nationalism and Normalization of Violence," which ran in the April 2018 issue of the Bar Bulletin, was blatantly political and violated the 1990 high court ruling.

The Supreme Court decision also held that attorneys who are required to be members of a state bar association have a First Amendment right to refrain from subsidizing the organization's political or ideological activities.

The bar's statement in its bulletin denounced hate mongering, referencing the August 2017 white nationalist march in Charlottesville, Virginia, and the May 2017 stabbing attacks on the Portland MAX train. It called out a "current climate of violence, extremism and exclusion" that threatens the rule of law.

A second statement signed by non-bar specialty groups went further, repeatedly criticizing President Donald Trump for having “catered to this white nationalist movement, allowing it to make up the base of his support and providing it a false sense of legitimacy.”

The two statements were on opposite pages, with one green banner surrounding them both. The bar magazine is mailed to members 10 times a year.

The state bar stood by its statement but voted to issue refunds to lawyers who objected to the second statement that decried the rise of white nationalism under Trump. The \$1.12 refund was calculated as the per-member cost of publishing that issue, according to the state bar’s board.

“Although the Specialty Bars’ statement included rhetoric critical of the president, the Bar Bulletin routinely publishes statements from a variety of authors with differing political viewpoints and creates a forum for the exchange of ideas pertaining to the practice of law,” Russo wrote. “This service also is germane to improving the quality of legal services.”

The judge further noted that even if the statement included political speech that wasn’t relevant to the practice or administration of law, it still wouldn’t violate the First Amendment because the state bar has adequate safeguards for members to challenge its use of their fees.

West Linn lawyer Diane L. Gruber and Klamath Falls lawyer Mark Runnels filed one of the lawsuits in U.S. District Court in Portland. Attorneys Daniel Z. Crowe, Lawrence K. Peterson and the nonprofit group, Oregon Civil Liberties Attorneys, filed a second suit against the bar.

Crowe and Peterson asked the court to declare Oregon's mandatory bar membership unconstitutional or to order the bar to stop using the mandatory fees for political speech.

The lawyers cited the landmark 2018 U.S. Supreme Court ruling in *Janus v. American Federation of State and County Municipal Employees*, which said public employees can't be required to pay unions dues or fees if they opt out of membership.

But Russo said she was bound to follow the Keller decision, which the last year's ruling didn't override.

The parties to the case can challenge the judge's findings.

A federal district judge will consider those challenges before issuing an order, adopting or rejecting all or part of the magistrate judge's recommendation.

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